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The Country Lawyer:

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NOT ONLY LARGE ABSTRACTS

OF THE SEVERAL
ACTS OF PARLIAMENT,
ON THE FOLLOWING HEADS,
BUT ALL THE DOCTRINE AND ADJUDGED CASES,
And every Thing relating to each Subject,
WITH THE AUTHORITIES.

LANDLORD *and* TENANT.
TRESPASS on GROUNDS.
RIGHT of COMMON.
WOODS.
GAME.
DOGS.
ESTRAYS.
CLERGY.
TITHES.
CHURCH.
CHURCH-WARDENS.
POOR.
CONSTABLE.
NUSANCE.
HIGHWAYS & TURNPIKES.

SERVANTS, *and* TAX.
ASSAULT.
HORSES, *and* TAX.
CARRIAGES, *and* TAX;
GENERAL POST.
HOUSE-TAX.
SHOP-TAX.
WINDOW-TAX.
HAT-TAX.
GLOVE-TAX.
AUCTION TAX.
RECEIPTS TAX.
BILLS of EXCHANGE *and*
NOTES TAX.

BY DR. JOHN TRUSLER.

*Not only useful but necessary to every Person living in the
Country, or elsewhere.*

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ON THE FOLLOWING HEADS:

NOT ALL THE INCIDENTS AND REPORTED CASES.

W 100 THE ASTOR LENOX



ADVERTISEMENT.

THIS Work, which is a Collection of all the useful Acts of Parliament, with the adjudged Cases therein, is designed to give persons that information on subjects which daily occur, and which they are frequently at a loss to obtain: they might collect it indeed from a variety of law-books, which the compiler of these pages has with some labour undertaken, but the books would be not only voluminous but expensive. The Editor flatters himself he shall be found correct, and that the information on each head here given, will be fuller, and more at large, than in any publication extant, it being his wish to give the world a Work which he has long lamented the want of himself, a Work which every person will not only think useful but necessary.

To prevent swelling these pages to an inconvenient size, he has given only such parts of the various acts, as more immediately concern the Public in general. But in all, he has omitted nothing necessary to be known, except to individuals.

There are a few abbreviated terms in the following pages, which it may be necessary to explain.

By Distress and Sale is meant levied by distress and sale of the goods, in consequence, the fine and expences first paid, the overplus is to be returned to the owner.

By Forfeitures from one sum to another, as from ten shillings to five pounds, is meant a certain sum, not less than the smallest, nor more than the greatest, at the discretion of the magistrate.

Imprisoned for a term, from one month to six, implies any time between the two, at the discretion also of the magistrate.

Note. Where there are different pains annexed to the same offence, by different acts of parliaments, no person can prosecute on both; if he sues on one, he cannot benefit by the other.

ERRATA.

For *J. Elves, Esq.* line 23, page 73, read *Wm. Stevens, Esq.*

At the bottom of the 73d page add the following:

The receipt must be written on a stamp, but as the Governors allow the duty, it should be added to the interest, and expressed on the receipt.

Last line, p. 82, for *See Observations, &c.* read *See notes on POOR, (nn) 1, 2. page 110.*

Page 137, erase the clause respecting *cattle*, it being repealed.

The head-line *NUSANCE*, page 149, &c. should be *HIGHWAYS*.



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THE
COUNTRY LAWYER,

LANDLORD AND TENANT.

1. **W**HERE any goods shall be distrained (*a*) for any rent (*b*), and the goods so distrained, shall not within

(*a*) 1. Distress for rent must be for rent in arrear, therefore it may not be made on the same day in which the rent becomes due; for if the rent is paid in any part of that day, whilst a man can see to count money, the payment is good. Burn, Distress.

2. Where a landlord means to distrain for rent, it is not necessary to demand his rent first, though the deed enjoins it. Hob. 207. 2 Roll Abr. 426, 427. Dyer, 348. Unless the tenant is on the land on the day of payment ready to pay it.

(*b*) 1. No distress for rent ought to be made on a Sunday, nor in the night before sun-rising and after sun-setting. 1 Inst. 142. Mirror, c. 2. f. 26.

2. A landlord may distrain whatever he finds on his premises, although not the property of his tenant; except it be such things as are for the maintenance and benefit of trade, as a horse that is shoeing in a smith's shop; a horse at an inn; the materials in a weaver's shop, for making of cloth; cloth or garments in a taylor's shop; sacks of corn or meal in a mill; nor can any thing distrained by the tenant for doing damage, be distrained for rent, for then it is in the custody of the law. Gilb. 44.

3. Oxen of the plough may not be distrained, nor a millstone raised to be picked while it lays on the other stone. Gilb. Law of Distress, from 34 to 44, edit, 1757.

A

4. Nor

within five days (c) next after such distress taken, and notice

4. Nor can a distress be taken of sheep, if there is sufficient distress without.

5. Nor can a person distrain one or two horses out of a cart, but must distrain cart and all; and not even these, if a man be in the cart. 1 Vent. 36.

6. Victuals cannot be distrained, nor a man's tools, nor any thing fixed to a freehold, as furnaces, coppers, &c. nor tables fixed in the house of a tenant; nor any thing that cannot be restored again in as good condition as when it was distrained. See Note 16. below.

7. If a cow is taken for a distress, the distrainor cannot milk her, for though she would be the better for it, yet he ought not to do the owner even good without his consent; and if the cow dies for want of being milked, yet the distrainor is justified, and may distrain again. See Note 31. below.

8. On a lease for tithes rendering rent, no distress can be made of the tithes, because the tithes are the things leased.

9. Nor can a distress be made of dogs, bucks, does, rabbits, and all "*feræ naturæ*." 1 Inst. 47.

10. Nor can a horse with a person on it, an axe in a man's hand cutting wood, and the like. Ibid.

11. Nor can money out of a bag, as it cannot be known again, but money sealed in a bag may. 2 Bac. Abr. 109.

12. If a landlord seizes part of his tenant's goods for rent in arrears, in the name of the whole goods on the premises, this is a good seizure of the whole. 6 Mod. Rep. 215.

13. If living cattle be distrained, they ought to be put into a common pound, or else in some open place, as in the distrainor's own yard or close, or in some other person's by his consent, so that the owner may come to feed them; and the owner of the cattle must have notice where they are, if they are not in the common pound; and then if they die for want of meat, it is the owner's fault; but if they are put into any close place, where the owner cannot come to feed them, or out of the county, and die for want of meat, the distrainor shall make satisfaction for them; if pounded in a very close pound, the distrainor must feed them at his own expence, and can have no satisfaction for the same. 1 Inst. 47.

14. If cattle distrained are put into an open pound, and there die, the distrainor may bring his action for the rent, or distrain again. If they are stolen out, he may have the same remedy.

15. If cattle distrained are put into an open pound, and afterwards escape without the distrainor's being the cause of it, the distrainor may bring an action against the owner, or he may distrain again. The owner can bring no action for damages against the distrainor. 11 Mod. Rep. p. 21, 24.

16. A horse bringing goods to market, goods brought to market to be sold, goods on a wharf or warehouse for exportation, goods in the hands of a factor, goods delivered to a carrier to be carried for

notice (d) thereof (with the cause of such taking (e) left at

for hire, wool in a neighbour's barn, are all goods of a third person, and cannot be distrained for rent by a landlord, though found on his premises. But goods left at an inn or other place, a chariot standing in a coach-house belonging to a livery stable, though the property of a third person, or the goods or household furniture of a lodger or inmate, may be distrained for rent. *Bur. vol. 3, 1489, 1500. 1 Black. Rep. 483.*

17. If a lessee for years assigns his term, he cannot afterwards distrain for the rent. *Wilson's Rep. part 2. p. 375.*

18. If a person sends his servant to take a distress for rent, and he pounds it, if the owner of the beasts or a stranger takes them out, the master shall have an action against the offender.

19. If a person distrains cattle and pounds them in another man's close, with his consent, and the owner of the cattle takes them out, the distrainer shall have an action against him for breaking the pound, and the owner of the close an action of trespass for breaking his close.

20. If a person breaks the pound and takes out goods, the distrainer may bring an action for pound-breach, and may take the goods, wherever he finds them, and pound them again.

21. If a landlord comes to distrain for rent, and sees the cattle, and the tenant or his servant drives them off the premises, he cannot bring an action for rescue, because the cattle were not in his possession, but he may follow them, and distrain them on another man's ground.

22. If a person distrains illegally, the owner may rescue them; but if they be pounded he may not break the pound, because they are in the custody of the law; but if he finds the pound door unlocked, he may take them out.

23. Cattle driving to a market, and put into a pasture by the way, are distrainable.

24. Cattle distrained for rent must not be tied in the pound.—
1 Ld Raym. 720.

25. No action lies after a distress is made, for the same distress; unless the cattle so distrained die, or escape, through the distrainer's neglect. *Ibid.*

26. Cattle that escape into a tenant's land, without the default of the owner of such cattle, are not distrainable for rent due by such tenant, until they have been so long on the land as to have lain down and risen again to feed. *1 Ld Raym. 169.* And if distrained, notice must be given either to the owner of the cattle or to the tenant of the lands so distrained on. *4 Mod. Rep. p. 394, 395.*

27. A distress taken in two different districts may be sold in either, after giving the party notice. *12 Mod. Rep. p. 76.*

28. A distress taken in two places for one cause, ought to be impounded together. *1 Ld Raym. p. 55.*

29. Goods distrained, damageable by wet or weather, must be pounded in a covered or close pound, or the distrainer must answer for them.

at the chief mansion-house, or other most notorious place on the premises, charged with the rent distrained for, be replevied, the persons distraining may, with the constable of the place, cause the goods so distrained to be appraised by two persons, (sworn by the constable for the purpose) and after such appraisement may sell the same for the best price (f) they can get, and pay themselves and the expences, leaving the overplus in the constable's hands, for the use of the owner.—

2 W. & M. stat. 1. c. 5. f. 2.

2. A person distraining for rent may seize or secure any sheaves or cocks of corn, or corn loose or in the straw, or hay lying or being in any barn or granary, or upon any hovel, stack, or rick, or otherwise, upon any part of the land or ground charged with such rent, and may lock up or detain the same in the place where the same shall be found, until it shall be replevied; and in default of replevying the same within the term aforesaid (No. 1.) may sell it after it has been appraised; so as that such corn, grain or hay, so distrained, be not removed by the person distraining, to the damage of the owner, out of the place where the same shall be seized, but be kept there till it be sold. Ibid. f. 3.

3. And in case any person shall, after a distress made, remove the things distrained, or take them away from the

30. Where there are two parcels of land distinctly let, the landlord cannot make a joint distress for both rents. *Strange*, vol. 2. 1040.

31. No one may work a beast distrained. See Note 7. above.

(c) 1. The landlord having made a distress, must remove the goods at the end of the five days after, or he may be sued for a trespass. *Strange*, vol. 2. 717.

(d) 1. Personal notice of a distress is sufficient. 1 *Ld Raym.* p. 55.

2. Notice to the owner of the goods distrained is enough. Ibid.

(e) 1. If a person distrains goods, and does not deliver the cause or reason for so doing, if they are put into a house, the owner may break it open and take them out.

(f) 1. If sold at the appraiser's price, the law supposes it the best. 1 *Ld Raym.* p. 55.

the person distraining (g), the party aggrieved may sue for the injury, and shall recover treble damages and costs against the offender, or against the owner of the goods distrained, in case the same be afterwards found to have come to his use or possession. Ibid. f. 4. See note (b), 19, 20, 21.

4. A person, however, distraining illegally, or his executors or administrators, is liable to be sued by the person aggrieved, his executors or administrators, and the party shall return double of the value of the goods so distrained, and full costs. Ibid. f. 5. See Note (b), 22.

5. No goods upon any leased tenement shall be taken in execution, unless the party at whose suit the execution shall be taken out, shall, before the removal of such goods, pay to the landlord or his bailiff all money due for rent for the premises, provided such arrears do not amount to more than one year's rent; if they do, on paying that year, the execution may be proceeded in (h). 8 An. c. 14. f. 1.

6. If

(g) 1. If a landlord distrains when no rent is due, the tenant may oppose the distress and rescue.

2. So may he, if the landlord comes to distrain and he tenders the rent, and the landlord will not take the money.

3. If a landlord distrains cattle of the plough, where there is sufficient to distrain besides, or if he distrains any thing not distrainable by the common law, the tenant may rescue it.

4. But for the offence of rescous or pound-breach, it has been adjudged that the costs shall be trebled as well as the damages. Ld Raym. 20.

5. When a person distrains, and the cattle distrained, as he is driving them to the pound, go into the house or yard of the owner, if he that took the distress demand them of the owner, and he deliver them not, this is rescue in law. 1 Inst. 161.

(b) 1. But the landlord must make his demand of the sheriff for such arrears, before the removal of the goods so taken in execution. Strange, vol. 1. p. 97.

2. The year's rent must be paid without any deduction. Ibid. p. 763.

3. The ground landlord cannot come in for his rent in arrear on an execution against the under tenant of the premises. Ibid. p. 787.

4. Where there are two executions against a tenant's goods, and there are two years rent due, the landlord cannot have the two years under such executions. Ibid. 1024.

6. If any lessee shall clandestinely remove his goods off the premises, in order to prevent the landlord or lessor from distraining the same for rent, such landlord or lessor, or any person authorised by him, may, within thirty days next ensuing such removal, seize the same, wherever they shall be found, and dispose of them in the same manner as in No. 1. provided such goods are not, *bona fide*, sold before the seizure is made. Ibid. f. 2, 3. See No. 12, 13, 14, 17.

7. The person owing rent on a lease for a life, or lives, may be sued for such arrears, by an action of debt. Ibid. f. 4. 11 Geo. 2. ch. 19. f. 1.

8. Where tenants for life, for years, or at will, keep possession of the premises after the expiration of their leases, the person to whom any rent is due upon any lease ended, may distrain for the same, provided such distress be made within six calendar months after the expiration of such lease, and during the continuance of such person's title, and during such tenant's keeping possession. Ibid. f. 6, 7.

9. Where tenants, or persons coming into possession through such tenants, shall wilfully keep possession, after the expiration of their leases, and after demand made, and notice in writing for quitting the premises, they shall be obliged to pay the owners of the said premises double rent, as long as they so detain them, to be recovered in any court of law, and there shall be no relief in equity against it. 4 Geo. 2. ch. 28. f. 1. See TRESPASS, Note 15.

10. In all cases between landlord and tenant, as often as half a year's rent shall be due, and the landlord or lessor to whom the same is due hath a right to re-en-

5. The executor or administrator of a landlord, has the same right as the landlord himself, to receive his one year's rent as above. Fortescue, Rep. 360. Strange, 214. But not to distrain. Bur. vol. 1. p. 212.

6. Landlord dead, and, after execution executed, administration is granted to A, he is not entitled to a year's rent. 1 Strange, 97.

7. The administrator of the landlord may have an action against the officer for taking the goods in execution, and removing them from the premises, before the landlord was paid a year's rent. Ibid. 212.

ter for the non-payment thereof, such landlord or lessor may, without any formal demand or re-entry, serve a declaration on ejectment, for the recovery of the leased premises; and in case the same cannot legally be proved, or no tenant be in actual possession of the premises, he may affix the same upon any of the doors of the house, or on some open place on the lands, and provided it appears on the trial, that half a year's rent was due, and no sufficient distress to be found on the premises, the lessor shall recover judgment and execution; and should the lessor, suffer the said execution to be executed, without paying rent and arrears, with full costs, and without filing a bill in equity, within six calendar months after such execution is executed, the lessee, assignees, &c. shall be barred from all relief in law or equity, other than by writ of error for reversal of such judgment, in case the same shall be erroneous, and the lease shall be void; but if the verdict in ejectment should pass for the defendant, or the plaintiff be non-suited, the defendant shall recover full costs. *Ibid.* f. 2.

11. But if the tenant shall, before the trial in ejectment, pay or tender his rent, and the cost (i), all proceedings shall stop, and the lease shall be valid. *Ibid.* f. 5.

12. If any tenant in arrear to his landlord or lessor shall fraudulently remove his goods, in order to prevent a distress, or if any person shall assist him in so doing, such tenant or person, so offending, shall pay to the landlord or lessor double the value of the goods so removed, to be recovered by an action at law.—

11 Geo. 2. c. 19. f. 3. See No. 6, 13, 14.

13. But where goods so removed shall not exceed 50 l. in value, the landlord or his agent may complain, in writing, to two neighbouring justices, and they shall enquire into the offence, and, on proof of it, they shall

(i) 1. If the landlord come to distrain the goods of his tenant for rent, the tenant may upon the land, before the distress, tender the arrearages, and if, after that, a distress be made, it is wrongful; nay, if the landlord has distrained, if the tenant, before the impounding thereof, tender the arrearages, the landlord ought to deliver the distress, and if he doth not, the detainer is unlawful. 2 *Inst.*

adjudge the said double value to be paid, and to be levied by distress, and for want of distress shall commit the offender to prison, to be kept to hard labour for six months, unless the money be sooner paid. Ibid. f. 4. The injured party may however appeal to the quarter sessions. S. 5. See No. 6, 12, 14.

14. Where goods are fraudulently removed, and locked up in any place, to prevent their being seized, the landlord or his agent, in the presence of a peace-officer belonging to the place, may break open (k), in the day time, any place where they are lodged, and seize the same: if they are in a dwelling-house, oath must be first made, before a justice of peace, that the goods are there suspected to be lodged. Ibid. f. 7. See No. 6, 12, 13.

15. Any cattle or stock of a tenant feeding on a common, any way belonging to the land leased, and all sorts of corn, grass, or any thing growing on the land leased, may be distrained for rent, and the person distraining may get in the crop when ripe, and lodge it in the barns or other places belonging to the land, or in any other barn, &c. which the lessor may hire for the purpose, as near as may be to the premises, and in a convenient time may appraise and sell the same, as in No. 1. The appraisement to be made when the crop is got in, and not before. Ibid. f. 8.

16. But the lessor must give the tenant notice, at his place of abode, of the grain, &c. being lodged; and where it is deposited, within a week after its being done; and if the tenant shall, at any time before the crops shall be cut and carried, pay or tender the rent, with all expences, the crop or crops so distrained shall be given up. Ibid. f. 9.

17. The person distraining may secure the distress on any part of the premises, and sell them on the same; and if any of the goods so distrained and secured shall

(k) 1. A landlord, in order to distrain, may not break a lock nor break open a gate, but if the outer door of a house is open, he or his bailiff may break open the inner doors. Cases temp. Lord Hardwicke, p. 168. Nay, the lessor cannot enter the tenant's house at all, unless the doors are open. Read Distr. 2 Bac. Abr. 111.

For Leases of Glebe, see Clergy, f. 42.

be taken away, without the distrainor's consent, the person aggrieved shall have the same remedy as in No. 3. Ibid. f. 10.

18. Every tenant to whom any declaration in ejectment shall be delivered, shall give notice to his landlord, or his bailiff, on pain of forfeiting three years improved rack-rent of the premises he holds, to be recovered in a court of law. Ibid. f. 12.

19. Where a tenant occupies any place by a verbal agreement only, the landlord may, in a court of law, recover a reasonable rent for the same. Ibid. f. 14.

20. Should any tenant for life die, before or on the day on which any rent was made payable to him by the under-tenants, by a lease, which ended on such tenant's death, his executors may, by an action at law, recover from the under-tenant the whole or any part of such rent, in proportion to the time the tenant for life lived, from the time the said rent was growing due. Ibid. f. 15.

21. If any tenant, at a rack-rent, or where the rent reserved shall be full three-fourths of the yearly value of the demised premises, who shall owe one year's rent, shall desert the said premises, and leave the same uncultivated, so as no sufficient distress can be had to counterbalance the arrears, two justices, at the request of the lessor, shall go and view the same, and cause to be affixed on some open part of the premises, a written notice of what day (at the distance of fourteen days at least) they will return to take a second view, and in case the tenant, or some person for him, shall not appear and pay the rent in arrears, or there shall not be sufficient distress on the premises, then the said justices may put the landlord or lessor in possession of his premises again, and the lease shall be void. Ibid. f. 16.

22. But the tenant, if aggrieved, may appeal to the next judge of assize, who may give redress if proper, or if the act of the justices be confirmed, may give the lessor costs not exceeding five pounds for the frivolous appeal. Ibid. f. 17.

23. In case any tenant should give notice of his intention to quit the premises he holds at a certain time, and not give up the possession at that time, agreeable to
such

such notice, he shall thenceforth pay double rent for the same, to be recovered in the same manner as the former rent. *Ibid.* f. 18.

24. No distress for rent due shall be unlawful because irregularly conducted, but the party aggrieved by such irregularity, may, by an action at law, recover damages for the injury he sustained thereby, and no more, and that only provided no tender of amends be made by the person distraining, before the action be brought. *Ibid.* f. 19.

25. All distresses are to be reasonable, on pain of the distrainer's being fined (*l*). Stat. Marlbridge, c. 14.

26. Where the value of cattle distrained shall be found not to be equal to the rent due, the person distraining, his executors, &c. may distrain again. 4 Geo. 2. c. 28. f. 4.

27. No distress shall be driven out of the county (*m*) where it was taken, on pain of being fined to the king. 52 Hen. 3. c. 4.

28. No distress of cattle shall be driven out of the hundred where taken, except a pound overt (*n*) is in the same shire, not above three miles distant from the place where the distress was taken, and no cattle or other goods distrained at one time shall be impounded in several places; on pain of 100 shillings to the party grieved, and treble damages. 1 and 2 P. and M. c. 12. f. 1.

(*l*) 1. Though this statute forbids the taking excessive distress, if a landlord distrain an ox or a horse for one shilling, if there be nothing of less value to distrain, it is not deemed excessive. 2 Inst. 107.

2. An action of trespass will not lie for making an excessive distress, where the entry made to distrain was lawful; but such an action will lie, if the entry is not lawful. *Strange*, vol. 2. p. 851.

(*m*) 1. Where lands lie in two counties not contiguous, and are let together, a distress for rent of the same, made in live stock, in one county cannot be driven into another. 1 *Ld Raym.* p. 55.

(*n*) A pound overt is an open pound, a place railed in, or a close, in the distrainer's own ground, or the ground of another giving his consent; here the cattle must be sustained at the peril of the owner. A pound covert, is a covered pound, as part of the house, a barn, &c.: here the distrainer must sustain the cattle at his own expence. 1 Inst. 47. See Note (*l*), 13.

29. No person shall take, for keeping any distress in a pound, above 4d. for any one distress, and where less hath been the custom, there to take less, on pain of 5l. to the party grieved, besides what he shall take above 4d. Ibid. f. 2.

30. A tenant shall not be prejudiced by paying his rent to a grantor before notice of the grant. 4 Ann. c. 16. f. 10.

INSTRUCTIONS FOR MAKING A DISTRESS.

As many landlords are under a necessity of distraining for rent occasionally, it may not be unuseful to give them some legal directions on that head, to save the expence of applying to an attorney.

If a landlord wishes to empower his servant, or any other person, to distrain, the following is his warrant for that purpose, which need not be on stamped paper.

To Mr. J. C. my Bailiff.

" Sir,

" Distrain the goods and chattels of A. B. in the house he now lives in, situate in , in the county of , for pounds, being two years rent, (or as the case may be) due to me for the same, at Michaelmas last, and for your so doing this shall be your sufficient warrant.—Dated, &c.

F. G."

Words used in distraining Goods when done by the Landlord's Bailiff.

" I, T. C. as bailiff to Mr. F. G. do distrain this table, (or the first thing you lay your hands on) in the name of the goods and chattels in this house, for and towards the satisfaction and payment of the sum of pounds, being two years rent, at pounds per ann. due to the said F. G. at Michaelmas last."

After this, proceed to take an inventory of so much of the goods as you judge will be sufficient to pay the rent due.

After

After the inventory is taken, a fair copy must be made of it, beginning thus:—

“ An Inventory of the goods and chattels distrained by me, T. C. as bailiff to Mr. F. G. in the dwelling-house of A. B. in , in the county of , this day of , being two years rent due to the said F. G. for the said house and appurtenances therewith demised, at Michaelmas day last, and as yet in arrear and unpaid.”

Imprimis, in the Kitchen.

Two wainscot tables, -
Six old chairs, - - -
Five copper saucepans, -

£. s. d.

In the Parlour.

One looking-glass in a gilt frame, - -
Two card-tables, mahogany, - -
£c. £c.

At the end of the inventory, write the following notice to the person whose goods you distrain:—

“ Mr. A. B.

“ Take notice, that I, as bailiff to Mr. F. G. have this day distrained the goods and chattels mentioned in the above inventory, for the sum of pounds, being two years rent, due at Michaelmas day last, for the premises above mentioned, and have secured the said goods and chattels in the *front-parlour* of the said house; and that, unless the said arrears of rent and charges of distress be paid, or the goods replevied within five days from the date hereof, the said goods will be appraised and sold, according to law.

Dated, &c.

T. C.”

Memorandum of delivering a true Copy of the Inventory to the Tenant.

“ A true copy of the above inventory and notice was this day of , 1785, delivered to the above-mentioned A. B. in presence of us,

P. Q.

R. S.”

This

This inventory, with the notice thereunder written, must be left at the house, with any person dwelling therein; or, if there be no person in the house, on the table in the kitchen, or some other notorious part of the house. It is proper to have another person with you when you make a distress, to examine the inventory, and to be witness to the transaction, if called on for that purpose.

N. B. The safest way is to remove the goods immediately, and in the notice to acquaint the tenant where they are moved to; but it is now most usual to let them stay on the premises, and leave men in possession to protect them, till you are entitled by law to sell them, which is on the *seventh* day.

If the tenant wants further time to raise the money, and the landlord chuses to indulge him, he must take a memorandum from the tenant, that possession is continued at his request, and by his advice, or the landlord will be a trespasser in continuing the same beyond the time limited by the statute, and be liable to an action for so doing.

On the sixth day the sheriff's office should be searched, to see if the goods are replevied; if not, go to the premises, and if the tenant is there, or any body on his behalf, demand the rent and charges of distress; if he does not pay the same, send for a constable and two sworn appraisers; let them see the goods taken in distress, and then the appraisers must be sworn by the constable, by laying their right hand on the Bible, having a New Testament in it. The common way is for the appraisers to buy the goods at their own valuation, and a receipt at the bottom of the inventory, witnessed by the constable, is considered as a sufficient discharge; but if the goods taken in distress are of great value, let there be a proper bargain and sale, between the landlord, the constable, the appraisers, and the purchaser, for the better proving of the transaction afterwards, if there should be occasion. The constable must administer to the appraisers the following oath.

“ You, and each of you, shall well and truly appraise the goods and chattels mentioned in this inventory,

B

tory,

story, (the constable shewing it), according to the best of your judgement: so help you God."

Memorandum of the Appraisers being sworn.

" Memorandum. That on the day of 1785, S. M. of, &c. and D. L. of, &c. sworn appraisers, were sworn on the holy Evangelists by me W. O. of, &c. constable, to make a true appraisement of the goods and chattels mentioned in this inventory, according to the best of their judgment.

Witness my hand, W. O. Constable."

Note, After the appraisers are sworn, and have viewed and valued the goods, indorse the following memorandum on the inventory, for the appraisers to sign.

" We the above-named S. M. and D. L. being sworn on the holy Evangelists by W. O. constable, above-named, to make a true appraisement of the goods mentioned in the above inventory, according to the best of our judgements, and having viewed the said goods, do adjudge and value the same at the sum of pounds, and no more, as witness our hands, this day of 1785.

S. M.
D. L."

After the goods are sold for the best price you can get for the same, you must deduct the arrears of rent, and all reasonable charges, and the overplus (if any) must be paid or applied to the tenant's use.

Note. The man in possession of the goods, &c. is to be paid two shillings and six-pence per day, if the tenant keeps him; and three shillings and six-pence if he keeps himself.

The Form of the Notice from the Tenant, where he requires a further Time for the Payment of the Rent, &c.

" Mr. T. C.

" I hereby desire you will keep possession of my goods, which you have this day distrained for rent due
from

from me to you, in the place where they now are, being in [the premises where the distress was made, which must be described], and I will pay the man for keeping the said possession; as witness my hand, this day of 1785.

A. B."

If the sheriff is in possession of the goods of a tenant on an execution, the landlord need not distrain, but should serve him forthwith with the following notice.

"To J. W. }
and } Esqrs. Sheriffs of Middlesex.
T. B. }

"Take notice, that there is now due from A. B. the person to whom the goods belong you are now in possession of, by virtue of his Majesty's writ of *Fieri facias*, &c. returnable [here mention the writ and return], the sum of pounds, for one year's rent due at Michaelmas last; as witness my hand, this day of 1785.

F. G. Landlord of the said premises."

OBSERVATIONS ON THE PAYMENT OF RENT, &c.

1. Every quarter's rent is considered, in law, as a debt, for which the lessor may distrain or bring an action.

2. Rent payable at the four quarterly feasts, or within any given number of days after, the tenant is not bound to pay, till the last day limited for payment. If there is a clause in the lease, that if the rent be unpaid for the space of fifteen days (more or less) after any of the quarter days, then such lease to be void; in this case, if the time limited be fifteen days, the tenant shall have thirty days after any of the said quarter days to save his lease and pay his rent; but if it be that the rent be unpaid for the space of fifteen days next after either of the said quarter days of payment, in such case the tenant has only fifteen days allowed him.

B 2

3. But

3. But though the tenant should not pay his rent within the time limited in his lease, yet if the landlord afterwards accepts the rent, the lease continues valid by such acceptance.

4. A tender of rent should be in the current coin of the kingdom, without any deduction of taxes or assessment, except a tender of the land-tax receipt in part.

5. When a landlord reserves a power of re-entry in case of non-payment of rent, if he distrains, he loses that power; but he may accept of the rent, and yet re-enter, provided he does not receive the succeeding quarter's rent.

6. If a landlord wishes to take advantage of a re-entry for non-payment of rent, the person who demands the rent must be careful not to demand a penny more or less than what is due.

7. On a lease conditioned that the tenant shall do no waste, if he commits waste and the landlord afterwards accepts the rent, he waves his right of re-entry.

8. If a lease be made to A. B. or his assigns, he may assign the lease by indorsement, but is bound to his landlord for the rent, for the remainder of his term, unless the landlord consents to the assignment, or receives the rent of any time in the name of the assignee. The first tenant cannot distrain on his under-tenant for arrears of rent by virtue of his indorsement.

9. If a tenant put up any thing in a house for his convenience, he may remove the same at any time during the term, but what he does to beautify the premises, he cannot remove.

10. A tenant *at will*, if his term be out, or he be turned out, if he sows such lands, shall be at liberty to reap and carry away his crop; but if he is a tenant *on lease for years*, he shall not have such privileges, because he knew when his lease would end, and should have acted accordingly.

11. An assignee of a lease, assigned after a covenant broken by the lessor, is not liable for breach. 1 Black. Rep. 351.

12. A covenant in a lease not to assign, does not extend

tend to an under lease for part of the term. 2 Black. Rep. 766.

13. Agreement to take farm; arable from Old Candlemas, pasture from Old Lady-Day, meadow from Old May, is taking the whole from Lady-Day, and notice to quit before Michaelmas is sufficient. 2 Black. Rep. 1224.

14. If a tenant cuts down trees or pulls down houses, or suffers them to fall down, the lessor shall have the trees and timber of the said houses. The landlord shall likewise have windfals; that is, timber blown down. Dotards or pollards blown down are the property of the tenant.

15. To commit waste is an injury to the estate; if, therefore, a tenant pulls down a house, unless it be ruinous, and in order to re-build it exactly of the same dimensions, he commits waste, and is liable to be prosecuted for damages. It is the same if he suffers a house to be burnt by negligence, or suffers it to decay, without repairing it: but if the house be destroyed by lightning, tempest, floods, enemies, &c. it is not waste. Co. Lit. 52, 53. Kelw. 87.

16. Converting a brew-house into tenements, though of greater value; a corn-mill into a fulling-mill, &c. is waste, for things must not be altered. Taking away or breaking down wainscots, doors, windows, benches, or coppers fixed to a house, is waste, and actionable. Lev. 309. Cro. Jac. 182. Salk. 368.

17. If a lessee covenants to leave a house at the end of the term, in as good condition as he found it, no action will be for waste, till the expiration of the lease. 4 Rep. 62. 5 Rep. 11, 21.

18. Felling of timber trees, or lopping them to sell, is also waste, and actionable. Lopping timber trees, so as to decay them, is the same. Co. Lit. 53, 88. See WOOD.

19. Cutting down fruit-trees in an orchard or garden is waste, though it be to repair the house; but not if they grow in a field. Suffering young trees to be destroyed by cattle, grubbing up a quickset-hedge, &c. is also waste. Co. Lit. 53. Nels. Abr. 540. See WOOD.

20. Ploughing up ancient meadow is waste; but converting it into hop-ground is not. Making an orchard of meadow is also waste; so is suffering sea-banks to decay, by which the land is overflowed; or not securing ditches, by which the groundfills of a building are rotted. 2 Leon. 174. Owen. 43.

21. Opening the ground to dig coals, (except for the tenant's use) lime, brick, stone, &c. without leave, will be waste; though the tenant may dig gravel, clay, earth, &c. to repair the house. Destroying doves in a dove-house, fish in a pond, or not leaving such stones as the tenant found, is also waste: Co. Lit. 53, 54. 5 Rep. 12. 3 Leon. 76. 2 Roll. Abr. 816.

22. All the above doctrines are founded on the statute of Marlbridge.

An Agreement for letting a House, &c. for three years, which will hold good, though not executed on Stamps.

Memorandum, made the day of , 1785, between A. B. of &c. and C. D. of &c. as follows:

"The said A. B. doth hereby let unto the said C. D. a house and garden, with the appurtenances, situated in , in the county of , late in the possession of E. T. and now of ; and also the field adjoining, of five acres, more or less, for the term of three years certain, and a quarter's notice to be given, or left in writing, by either of the said parties, to or for the other of them, at the end of the said three years. The rent to commence from Lady-Day next, at and under the yearly rent of , payable quarterly; the first payment to be made at Midsummer-day next.

"The said C. D. doth agree to take the said house, garden and field, of the said A. B. for the term, and at the said rent, payable in manner aforesaid; and that he will, at the expiration of the term, leave the house, &c. in as good repair as he found it. As witness our hands,

Witness,

Term

Form of Notices to and from Landlords and Tenants, to quit Premises.

A Landlord's Notice.

" Sir,

" I do hereby give you notice to quit the house and garden, &c. you hold of me, situate at _____, in the county of _____, at the yearly rent of _____ pounds, on or before Midsummer-day next.

Your's, &c.

J. H. Landlord of the said premises."

Dated the _____ day of _____, 1785.

" To T. T. the tenant thereof."

A Tenant's Notice to his Landlord.

" Sir,

" I hereby give you warning of quitting your house, on or before Lady-day next, of which be pleased to take notice. Dated the _____ day of _____, 1785.

From your humble servant,

D. C."

" To Mr. G. M. the Landlord of the premises.

A Notice to a Tenant to quit, or, on refusal to pay double rent, agreeable to 4 Geo. II.

To Mr. F. G.

" I hereby demand of you, and give you notice, that you are to deliver up the possession of the house, with the appurtenances, in the parish of _____, in the county of _____, now in your occupation, to Mr. A. B. your landlord, at Lady-day next, ensuing the date hereof; and in default of your compliance therewith, the said A. B. doth, and will insist on your paying him from thenceforward, for the same, the yearly rent or sum of _____ pounds, being double the former rent or value thereof, for so long time as you shall detain the key, and keep possession of the said premises, over the said notice. Given under my hand,

hand, this day of , in the year of our
Lord

N. M. Agent for said Mr. A. B. legally authorised,"

"To Mr. F. G. the Tenant. These."

If the rent was made payable half-yearly, give half
a year's notice.

The notice or warning to quit must be in writing,
directed to the tenant,

ON

ON TRESPASS.

1. **I**N actions for trespass, persons throwing down inclosures shall forfeit treble damages, though, if the jury give not 40 s. damages, the plaintiff shall have no more costs than damages. 23. Car. 2. c. 7, 9. (See f. 2.) Unless the judge will certify that the trespass was wilful and malicious (*a*). 8 W. 3. c. 11. f. 4.

2. If in trespass defendants are acquitted, they shall have costs (*b*), except the judges certify cause for making them defendants. 8 and 9. W. 3. c. 11.

DETERMINATIONS OF THE COURTS ON TRESPASS.

1. Entering a man's house against his will is trespass, except he comes to demand or pay money. 2 Lill. Abr.

2. Trespass lies generally for breaking a man's close or ground; chasing cattle, whereby they are injured; breaking of fences; taking away of pales; driving a cart and horses over the ground of another, where there is no way for it; fishing in another's pond, or breaking the pond; eating another's corn, &c. with cattle; digging in another's coal-mine, &c. Co. Lit. 37. Cro. Jac. 463. Saund. 202.

3. Where many come to do a trespass, and they are all present when done, although some of them only look on, if they do not declare their disassent thereto, they are all liable to an action. Co. Lit. 57. 10 Rep. 60. 3 Lev. 324.

4. If one enters the ground or house of another, the party must be required to go out, before hands can be

(*a*) If warning has been given not to trespass, the judge will always certify. In trespass for putting diseased cattle into a close, though the damages found be under 40 s. the plaintiff shall have full costs. 1 Strange 192.

(*b*) If there are several defendants, all such as are acquitted shall have costs.

laid

laid on him ; but not so if he enters by violence. 2 Salk. 644.

Damage-Feasant, or Cattle-Trespassing.

5. If A. is found to fence his close against B. and he against C, a neighbour, and neither of them inclose against one another, so that the beasts of C. for want of inclosure, get into the ground of A. from B.'s ground ; in this case, A. shall have trespass against C. for he is bound only to fence against B. Dyer 366. Jenk. Cent. 161.

6. One drives my cattle into another's land. I may go on the land and take them out, yet, by this I am a trespasser to the owner of the ground, and he may have his action against me for it, and I must seek my remedy against him that drove them in. 21 Hen. 7. 27. 1 Rep. 54.

7. If another man have a horse or other goods in my ground or house, and he enter to take it away without my leave, action of trespass lies against them ; but if I drive the cattle or carry the goods of another into my land, he may come upon the land and take them, and no action lieth. 4 Shep. Abr. 135, 136.

8. If a man hunt my beasts in ground belonging to me, or some other person, he is liable to an action of trespass ; though the owner of the land may gently by himself or his dogs chase them out, and justify the same. Hill. 16 Jac. B. R. Bro. Tresp. 421. 8 Rep. 67.

9. Swine or hogs, ten weeks old, shall not go unringed, in any common, woods, &c. on pain of forfeiting 4d. for each. 35 H. 8. c. 17. f. 17.

10. If another person's beasts are found in my ground, without my leave, feeding or doing damage to the grass, corn, wood, &c. I may distrain and impound them, as well by night as by day. 51 H. 3. stat. 4. 1 Inst. 142.

11. If ten head of cattle are doing damage, a man cannot take one of them and keep it till he be satisfied for the whole damage, but he may bring an action of trespass for the rest. 12 Mod. 660.

12. If

12. If a man hath right of common for ten cattle, and he puts in more, all above ten may be taken damage-feasant. 1 Roll. Abr. 665.

13. If a man take my cattle and put them into the land of another, the tenant of that land may pound them, though I was not privy to it. 2 Danv. Abr. 364.

14. If a man comes to distrain, and fees the beasts in his ground, and the owner chases them out purposely, before the distress be taken, yet the owner of the soil cannot distrain them; if he does, the owner of the cattle may rescue them; but he may bring an action of trespass. 1 Inst. 16. 9 Rep. 22.

15. If a man puts cattle to pasture at so much a week with another, who after gives notice, that he will have them no longer; if they are not taken away, the owner of the ground may pound them: and so where a lessee holds after an estate is ended. 43. Edw. 3. Kelw. 69.

16. Beasts belonging to the plough, or beasts of husbandry, sheep, horses joined to a cart, and a horse with a rider on it, may be pounded. 1 Sid. 422, 440. So may geese.

17. A grey-hound, or a ferret hunting rabbits in a warren, may be taken damage-feasant; but not nets or gins out of a man's hand, carrying them through a warren. 2 Danv. 633.

18. If men are rowing up my water, and endeavouring with nets to catch fish in my fishery, I may take their oars and nets, damage-feasant, but cannot cut their nets. Cro. Car. 228.

19. If amends are tendered before cattle are pounded, the detainer is unlawful; also, when the pound-door is open, the owner may take them out. 5 Rep. 76.

20. No cattle, taken damage-feasant, shall be driven out of the county, on pain of fine to the king. 52 H. 3. c. 4. 2 Inst. 106. See LANDLORD and TENANT, 28.

21. If a person thinks himself aggrieved by another's distraining and pounding his cattle, he may speedily replevy them, or take back his pledge, by applying to the proper officer, and giving security to try the cause; but

but application must in this be made to an attorney.
2 Inst. 106.

22. If the fences of another man's ground be out of repair, and the neighbours cattle get in, yet, if they are left in the ground to lie down and get up again to feed, they may be pounded: so may they in common fields where there are no fences.

23. Where fences are not kept up, so as to prevent cattle coming into the ground of another, an action of trespass lies against the owner of the fence. 1 Salk. 335.

24. Where a hedge and ditch joins together, it belongs to the owner of that land, on whose ground or side the hedge is, to keep the said hedge or fence, and the ditch on the other side, in repair and scoured. Par. Off. 188.

25. Hedge-breakers. See WOOD, f. 5, 6, 7.

See further, of Distress in LANDLORD and TENANT, f. 3, 4, 29; and notes (a), 5, 7, 13, 14, 15, 18, 19, 20, 22, 25, 31; (f) f. 4, 5. (l), and note 6 to GAME.

ON THE RIGHT OF COMMON.

1. **L**ORDS of manors may inclose part of the waste, &c. and thereby discharge it from being common, leaving common sufficient (a), and neighbours, as well as tenants, claiming common of pasture, shall be bound by it. 20 H. 3. c. 4.

2. Commons must be driven yearly at Michaelmas, or within fifteen days afterwards. 32 H. 8. c. 13. See HORSES, 15, 16.

3. No stone-horses above two years old, under fifteen hands high, shall be turned into any forest or common, where mares are kept, on pain of forfeiting them. Ibid. See HORSES, 10, 11, 12, 13, 14.

4. No scabbed or infected horses shall be put into commons, or common fields, under the penalty of 10s. to be levied by the lord of the leet. Ibid.

5. No person shall burn on any hills, commons, or other wastes, any grig, ling, heath, furze, goss or fern, on pain of being committed to prison, from ten days to one month, and there whipt, and kept to hard labour. 4 and 5 W. 3. c. 23. f. 11.

6. Proprietors of wastes, and persons having a right of common, may, by consent, inclose any part thereof for planting and preserving timber or under-wood. 29 Geo. 2. c. 39, f. 1. And any recompence to be made, by virtue of the said act, shall be to the persons interested in the said right of common. 31 Geo. 2. c. 41. f. 1.

7. Wilfully destroying any fence, for dividing or inclosing common waste, in pursuance of an act of

(a) 1. If the lord incloses, and does not leave sufficient common, the commoners may not only break down the inclosures, but may put in their cattle, though he ploughs and sows the land. 2 Inst. 88. 1 Roll. Abr. 406. See 2. below, and WOOD, 21.

2. No man can turn a greater number of cattle upon a common, than his lands, to which his common belongs, are able to maintain. 3 Salk. 93.

3. Uncommonable cattle are goats, hogs, &c. such as will do mischief. 1 Inst. 122. 1 Roll. Abr. 398.

parliament, is transportation for seven years, prosecution within eighteen months. 9 Geo. 3. c. 29. s. 3, 4.

8. No commoner can take the grafs that grows on the common, otherwise than by feeding it, nor can he meddle with the foil; but if the owner fet up a hedge on the common, the commoner may throw it down.

15 H. 7. See Observations below, 13, 14.

OBSERVATIONS ON THE RIGHT OF COMMON.

1. The property of the foil of the common is entirely in the lord, the use of it jointly in him and the commoners. 1 Inst. 122.

2. The lord may allow a stranger to put his cattle in a common, or take money for the same, provided he leaves sufficient room for the commoners. 1 Danv. 795. 2 Mod. 6.

3. But if the lord overstocks the common, the commoners cannot distrain, but may bring an action against him. F. N. B. 125.

4. The landlord may distrain, however, when the common is overstocked, and bring actions of trespass, for any trespass done in the common. 9 Rep. 113.

5. A lord may make a pond on the common, but he cannot dig pits for gravel or coal. 3 Inst. 204.

6. If the lord makes a warren on the common, the commoners may have an action against him, though they may not kill the rabbits. 1 Rol. 90, 405.

7. A commoner may distrain the cattle of any that turn on the common without right. See Observation 2. above, and 8. below. Bridg. 10, 11. Godb. 123, 124. 2 Leon. 201, 202.

8. If a tenant of common land ploughs and sows it, the commoners may, at the appointed time, turn in their cattle; or, if he lets his corn lie in the field beyond the usual time, the other commoners may turn in. 2 Leon. 201, 202.

9. Every commoner may break the common, if it be illegally inclosed. Lit. Rep. 38. 1 Rol. Abr. 406.

10. No commoner can turn any cattle on but his own,

own, except he borrows them for his use. 1 Danv. 798.

11. One commoner cannot distrain the cattle of another commoner, unless he turns on more than he has a right to do. 2 Lutw. 1238.

12. If a commoner turns on more stock than he ought, the other commoners may have a writ of admeasurement, to determine the quantity and quality of the cattle.

13. Where turf is taken from a common, the lord only is to bring the action. 1 Rol. Abr. 89, 398. 2 Leon. 201.

14. A commoner cannot dig clay. Godb. 344. nor cut bushes, dig trenches, &c. in the common, without a custom to do it. 1 Nels. 462.

15. New-erected cottages, since the 31st of Elizabeth's reign, have no right of common. 2 Inst. 740.

16. Any man, by custom, may have common and feeding for his cattle on the King's high-way, although the soil doth belong to another. Hill. 42 Eliz.

W O O D.

1. **W**HERE a person has a right to inclose ground, and unknown persons shall pull down the fences, the adjoining towns shall be distrained to make good the fence, and pay the injured party damages (a). 13 Ed. 1. ft. 1. c. 46.

2. And the person recovering shall have treble damages. 3 and 4 Ed. 6. c. 3. f. 4.

3. No person who shall have any woods, or underwoods, wherein others have common of pasture, shall cut down the same, until the fourth part thereof shall be set out and fenced by the lord, with the assent of the major part of the tenants; and if they cannot agree, then two justices appointed at the quarter sessions shall set out the same. 35 H. 8. c. 17. f. 7.

4. Persons wilfully burning, or causing to be burnt, any heap of wood prepared for making coals, billets, or talwood, or barking any fruit-trees, shall forfeit to the injured party treble damages by action of trespass, and 10 l. to the king. 37 H. 8. c. 6. f. 4.

5. Persons robbing any orchard or garden, breaking any fences in the same, taking up any fruit-tree, designing to carry it away; or spoiling any woods or underwoods, or trees (b), (the same not being felony) (c), their procurers and receivers, knowing the same, shall for the first fault, on conviction by one witness before a magistrate, make the injured party such satisfaction as the said magistrate shall decree, or shall be committed and whipped. 43 Eliz. c. 7. f. 1.

6. A constable may apprehend persons suspected of stealing wood from hedges or any gates, or any other wood, and by a warrant of a justice may search their premises, and such persons not giving a satisfactory account how they came by the wood, &c. there found,

(a) Unless they indict the offenders within a year and a day of the offence committed. 2 Inst. 477.

(b) The number of trees must be specified. Comyns, 131.

(c) If the fruit be gathered, or the wood cut, to bring them away, is felony. Burn's Justice, Wood.

shall

shall be punished as if they cut the same; that is to say, for the first offence, shall make the owner such satisfaction for damages as the justice shall appoint, and forfeit to the poor any sum, not exceeding 10 s. the justice shall think proper, or be committed for a month, or be whipped by the constable; for the second offence, be imprisoned and kept to hard labour for one month; for the third, shall be deemed an incorrigible rogue, and be punished as by article 13. below. 15 C. 2. c. 2. 13 and 14 C. 2. c. 12.

7. But the party must be prosecuted within six weeks after the offence committed. 15 C. 2. c. 2.

8. Buyers of stolen wood, from suspected persons, shall pay treble value to the owner, and a justice may levy the same by distress, or, in default of distress, may commit the offender for one month. Ibid.

9. Persons destroying nurseries, timber trees, or other wood growing, or breaking down fences, shall be committed to hard labour to the house of correction for three months, and shall be publicly whipped once a month; where there is no house of correction, to the common prison for three months, and shall be publicly whipped once a month, and, before discharged, shall give security for their good behaviour for two years. If the offenders are not known, the injured party shall have satisfaction from the adjoining parishes, provided that such parishes do not convict the offenders within six months. 13 Ed. 1. st. 1. c. 46. 1 G. st. 2. c. 48. and 6 G. c. 16.

10. Persons destroying or taking away any tree growing in any waste, in which any person hath right of common, shall incur the same penalty as in article 9. 29 G. 2. c. 36. f. 8.

11. Persons destroying, damaging, or stealing any timber trees, or trees likely to become timber, such as oak, beech, chestnut, walnut, ash, elm, cedar, fir, asp, lime, sycamore, birch, poplar, alder, larch, mapple, and hornbeam, shall, on the oath of one witness, for the first offence, forfeit not exceeding 20 l. or be committed till paid; or, if not paid, from six to twelve months, as a justice shall ordain; for the second offence, a sum not exceeding 30 l. or be committed, as

aforesaid, from twelve to eighteen months; for the third offence, shall be transported for seven years.

6 G. 3. c. 48. 13 G. 3. c. 33.

12. Persons destroying or stealing any roots, shrubs, or plants out of fields (*d*), nurseries, gardens, or other cultivated lands, shall, on the oath of one witness, for the 1st offence, forfeit, not exceeding 40s. or be committed to hard labour for one month, and be there whipped; for the 2d offence, a sum not exceeding 5 l. or be committed as aforesaid for three months, and whipped once a month; for the 3d offence, shall be transported for seven years, but be at liberty to transport themselves. Ibid.

13. Persons going into woods, and destroying or stealing any part of the same, or having wood in their possession, &c. not giving a satisfactory account how they came by it, shall, on the oath of one witness, for the first offence, forfeit not exceeding 40s. or be committed to hard labour for a month, and once whipped; for the second offence, forfeit not exceeding 5 l. or be committed to hard labour for three months, and whipped once a month; for the 3d offence, shall be deemed incorrigible rogues, and be committed for a time not exceeding two years, nor less than six months, kept to hard labour, and be whipped, as the court shall think proper. Ibid. 17 G. 2. c. 5. s. 9.

14. The penalties to go, half to the informer, and half to the injured party. 6 Geo. 3. c. 48.

15. Persons preventing the seizing or securing any one carrying away such timber or trees, shall forfeit 10l. to the person convicting them; on non-payment to be committed to hard labour for a time not exceeding six months. Ibid.

(*d*) If any person shall steal, or maliciously pull up or destroy any turnips, potatoes, cabbages, parsnips, pease or carrots, growing or being in any garden, lands or grounds, open or inclosed, and be convicted before one justice, he shall forfeit, not exceeding 10s. over the value of the goods stolen, half to the owner, and half to the poor, or be committed to hard labour, for a time not exceeding one month. Prosecution within thirty days of the offence. 13 Geo. 3. c. 32. s. 1, 4.

16. Persons

16. Persons destroying plantations, or throwing down inclosures in the night, shall forfeit to the party grieved treble damages. The offence to be enquired into within six months. 22 and 23 C. 2. c. 7. & 5, 6, 7.

17. Persons destroying or stealing timber trees, or stealing roots, shrubs, or plants, to the value of 5 s. from any garden or nursery, or aiding therein; or buying such roots or plants, knowing them to be stolen, shall be transported for seven years. 6 G. 3. c. 36.

18. Persons setting fire to any wood or coppice shall be guilty of felony. 1 G. 1. c. 48. s. 4.

19. Persons destroying trees in any avenue, or growing in any orchard, garden, or plantation; or setting fire to any stack of wood, or forcibly rescuing any prisoner in custody, or, by promises or reward, procuring any to join them therein, shall suffer death. And the hundred shall pay the damages (but not exceeding 200l.) 9 G. c. 22.

20. For the better preventing the destruction of timber in forests and chases, the surveyor or his deputy may seize and take away, for his own use, any instrument used by any person unlawfully in such forest or chase. 4 G. 3. c. 31.

21. Where there is a wood or coppice in common, the lord may inclose a fourth part. 35 H. 8. c. 17. 13 Eliz. c. 25.

22. None may destroy any woods, by turning them into tillage or pasture, &c. if two acres or more in quantity, on pain of 40s. an acre. Ibid.

23. If coppice-wood is felled at or under 24 years growth, there must be left twelve standils of oaks, ash, elm, &c. in every acre, on pain of forfeiting 3 s. 6 d. for every standil wanting; and they are not to be cut down till ten inches square, within three feet of the ground, or until so many years after they are left, under penalty of 6 s. 8 d. &c. 35 H. 8. c. 17.

24. All woods or coppices, felled at 14 years growth, shall be preserved from destruction for eight years, and no cattle be put into the ground, from the time of felling, till five years afterwards, 13 Eliz. c. 25.

OBSERVATION ON WOOD.

It has been adjudged, that if A. plants a tree upon his own ground, and in growing its roots extend into the land of B. adjoining, they are tenants in common of this tree ; but if all the root grows in the ground of A. though the boughs overshadow B.'s land, yet the branches follow the root, and the property of the whole is in A. 1. Ld Raym. 737.

G A M E.

1. **P**ENALTIES adjudged by a justice of peace, may be sued for by the prosecutor, if he pleases, in a court of law, (before the end of the term after the offence committed; 26 G. 2. c. 2.) and he shall recover double costs, 8 G. c. 19. See the next clause.

2. But the action must be brought within six months after the offence, and the prosecutor recovering shall have double costs, and the whole penalty, notwithstanding former acts give half to the poor. 2 G. 3. c. 19.

3. All lords of manors, or other royalties, not under the degree of an esquire, may, by writing under their hands and seals, authorise one or more game-keepers within their respective manors or royalties. 22 & 23 C. 2. c. 25. s. 2. But no lord of a manor shall appoint more than one game-keeper in each manor to kill game, and the name of such person shall be entered with the clerk of the peace where the manor lies, (the entry to be made and viewed without fee), and he shall take out a certificate, which the clerk shall grant on being paid one shilling for the same. 9 An. c. 25. s. 1.

4. And this certificate shall be taken out annually, and be charged with a stamp-duty of half-a-guinea (a). 25 G. 3. c. 50. See No. 13.

5. Any clerk of the peace, or other officer appointed to grant these certificates, upon refusal, forfeits 20 l. and the duty upon the certificate. S. 5.

6. And if any game-keeper, whose name is not so entered, and who shall not be otherwise qualified by the laws to kill game, shall sell, or expose to sale, any hare, pheasant, partridge, moor, heath game, or grouse, he shall, on conviction before one justice, on oath of one witness, forfeit, for every offence, 5 l. by distress, or, for want of distress, be sent to the house of correction for three months, for the first offence, and for every other offence four months. 9 An. c. 25. s. 1. See No. 7, 27, 28, 50, 44, 50.

(a) A game-keeper, hunting out of his manor, is deemed to have no certificate, and is liable to the penalty of 20 l. 25 Geo. 3. c. 50.

7. Lords of manors may empower their game-keepers to kill game on their own manors, and should such game-keepers sell or dispose of the game so killed without their masters consent, they shall, on the oath of one witness, before one justice, if convicted, be committed to hard labour for three months. 5 An. c. 14. f. 4. See No. 6, 27, 28, 30, 44, 50.

8. No lord of a manor, however, shall appoint any person a game-keeper, to kill game, that is not qualified in himself to do so, unless he be truly a servant to such lord, and employed to kill solely for his master's use; any person killing game under colour of a deputation, except in the above circumstances, or keeping or using any dogs, guns, or other instrument to destroy game, shall forfeit 5 l. as in No. 6. 3 G. c. 11. f. 1.

9. A game-keeper so authorised may search for dogs and engines, and seize the same for the use of the lord, or destroy them (b). 22 and 23 C. 2. c. 25. f. 2.

10. On the death or renewal of a game-keeper, notice is to be immediately given, and a new certificate taken out. 25 G. 3. c. 50. f. 14.

11. A qualification to kill game (exclusive of the certificate required by the 25 Geo. 3. c. 50.) is having lands and tenements, or some other estate of inheritance, in our own or our wife's right, of the clear yearly value of 100 l. a year, or for term of life, or having lease or leases of ninety-nine years, or for any longer term, of the clear yearly value of 150 l. (other than the son and heir apparent of an esquire (c), or other person of higher degree, and the owners and keepers of forests, parks, chases, or warrens, being stocked with deer or conies for their own necessary use, in respect of

(b) But he should have a warrant from a justice of the peace so to do. Comb. 183.

A game-keeper is entitled to keep and have dogs, &c. every where, and no man can legally seize a game-keeper's gun, though he be not in his own manor. 2 Wilson, 387.

(c) By this is meant, above the degree of a gentleman, and below that of a knight. Knights sons are esquires, and the sons of every degree above a knight, the sons of captains, and all degrees above justices of peace. Barristers, and persons bearing commissions under the king, where the person is styled an esquire in such commission. Graduate doctors are a degree above esquires.

the

(the said forests, parks, chases or warrens); no other person is allowed to keep any guns, bows, grey-hounds, setting-dogs, ferrets, coney-dogs, lurchers, hays, nets, lowbels, hare-pipes, gins, snares, or other engines for the taking and killing of game. 22 & 25 C. 2. c. 25. But a layman not having 40 s. a-year, or a clergyman advanced to 10 l. a-year, shall not kill game, on pain of a year's imprisonment. 13 R. ft. 1. c. 13.

12. In order further to be qualified, every person killing game must previously deliver a written account of his Christian name and residence to the clerk of the peace, his deputy, or to the sheriff or steward clerk of the county next to where he shall reside, and annually take out a certificate thereof, charged with a stamp-duty of two guineas. The clerk to have one shilling for the certificate. 25 Geo. 3. c. 50. s. 1, 2. See No. 5.

13. Every person, game-keeper or otherwise, killing game without these certificates, forfeits 20 l. Ibid. s. 8, 9.

14. Persons having and producing a certificate, may examine any person they find killing game, and if such person shall refuse to produce his certificate, or tell his Christian and surname, and place of residence, or give a false name, or wrong place of residence, he shall forfeit 50 l. Ibid. s. 15.

15. Forging stamps or signatures to certificates, is a capital offence. Ibid. s. 19.

16. These certificates do not authorise a person to kill game, unless they are qualified as by No. 11. or under the authority of a deputation. Ibid. s. 16, 17.

17. Persons offending against this act of 25 Geo. 3. c. 50. and not able to pay the penalties, shall suffer three months imprisonment. Ibid. s. 24, &c.

18. Any justice may determine any matter, and inflict any penalty under this act of 25 Geo. 3. c. 50. in a summary way, and levy such penalties by distress. An appeal, however, may be made to the quarter sessions, or persons may sue for penalties in the courts of Westminster, and they shall be solely the property of the plaintiff. Ibid. s. 21, 22.

19. Persons summoned as witnesses before a magistrate, and not appearing, forfeit 10 l. Ibid. s. 23.

20. The

20. The names of persons taking out these certificates are to be published annually in those news-papers which circulate in or near the places where they reside. Ibid. f. 11, &c.

21. Unqualified persons using or keeping dogs or engines for destroying game, and not giving a satisfactory account to a justice how they came by them, shall forfeit for every offence from 5 s. to 20 s. to be levied by distress; and, for want of distress, the party shall be committed to hard labour from ten days to one month, and be whipped. And if any person so charged with the said offence shall not before the justice prove his innocence, he shall be convicted thereof, in the same manner as the person first charged therewith, and so from person to person, till the first offender be discovered. 4 & 5 W. c. 23. f. 3.

22. And all lords of manors, or their game-keepers, may within their manors oppose and resist such offender in the night-time, as if the fact had been committed in any ancient chase, park, or warren inclosed. S. 4.

23. If any unqualified person shall keep or use (*d*) any grey-hounds, setting-dogs, hays, lurchers, (*e*) tunnels, or other engines for killing game, and shall be convicted thereof before one justice, on the oath of one person, he shall forfeit 5l. (*f*) to be levied by distress, or, for want of sufficient distress, be committed for three months for the first offence, and four months for every other. 5 An. c. 14.

24. And any justice and lord, within his manor, may take away such dogs or engines, which shall be in the possession of unqualified persons. Ibid. f. 4.

25. A constable, authorised by a justice's warrant, may enter into and search (as in the case of stolen goods) the places belonging to suspected persons, and if any hare, partridge, pheasant, pidgeon, fish, fowl,

(*d*) Hounds, or other dogs not here specified, do not fall within this act; but they may be seized, as by No. 9. Str. 1126. Comyns, 576. nor does a gun. Andr. 225. fefs. C. V. 2. 204. Str. 1098.

(*e*) Walking about with intent to kill game, is sufficient evidence of using an instrument for that purpose. Sefs. C. V. 1. 88.

(*f*) If a person kills ever so many hares, &c. in one day, it is but one offence, and he can forfeit but one 5l.

goods)

or other game (g), shall be found, shall be carried before a justice, and if he do not give a satisfactory account how he came by them, he shall forfeit for every hare, &c. from 5 s. to 20 s. to be levied by distress, or, for want of distress, be committed to hard labour from ten days to one month, and be whipped. 4 & 5 W. 3. c. 23. f. 3.

26. And if any person so produced or charged with the said offence, shall not prove his innocence, he shall be convicted in the same manner as the person first charged therewith, and so from person to person, till the first offender be discovered. S. 3.

27. If any higher, chapman, carrier, inn-keeper, victualler or ale-house-keeper, shall have in his custody or possession, or shall buy, sell, or offer to sell, any hare, pheasant, partridge, moor, heath-game or grouse, unless such game, in the hands of such carrier, be sent up by some person qualified; (or if any person whatsoever, whether qualified or not, shall sell, expose, or offer to sale, any hare, pheasant, &c. 28 G. 2. c. 12.) he shall be taken before a justice, where the offence is committed, and being convicted thereof (in three months after the offence) on view or oath of one witness, he shall forfeit for every hare, &c. 5 l. by distress, or in want of it be committed three months for the first offence, and four months for every other. 5 An. c. 14. f. 2. See No. 6, 7, 28, 30, 44, 50.

28. And if any hare, &c. as above, shall be found (h) in the shop, house, or possession of any poulterer, salesman, fish-monger, cook, or pastry-cook, or of any person not qualified in his own right to kill game, or entitled thereunto under some person so qualified, it shall be deemed an exposing thereof to sale. 9 An. c. 25. f. 2. 28 G. 2. c. 12. See No. 6, 7, 27, 30, 44, 50.

29. And any justice of the peace and lord within his manor, may take away any such hare, &c. or any

(g) Rabbits killed in a private warren are not game within this act. Ld Raym. 151.

(b) This must be understood of proof, that it was found. Q. and George. 6 Mod. 57.

other game, from any such higler, &c. as above, or any other person not qualified, which shall be found in his possession. 5 An. c. 14. f. 4.

30. And any person that shall destroy, sell, or buy any hare, &c. and shall in three months make discovery of any higler, &c. that hath bought or sold, or offered to buy or sell, or had in their possession any hare, &c. so as any one shall be convicted, such discoverer shall be discharged of the pains and penalties hereby enacted, for killing or selling such game, and shall receive the same benefit as any other (i) informer. S. 3. See No. 6, 7, 27, 28, 44, 50.

31. If any inferior (k) tradesman, apprentice, or other dissolute person, shall presume to hunt, hawk, fish, or fowl, (unless in company with the master of such apprentice, duly qualified) he shall not only be subject to the other penalties, but if he be prosecuted for trespass, in coming upon any person's land, and be found guilty, the plaintiff shall recover damages and full costs (l). 4 and 5 W. c. 23. f. 10.

32. By the yearly mutiny-acts, if any officer or soldier, without leave of the lord of the manor under his hand and seal, shall destroy any hare, coney, pheasant, partridge, pidgeon, or other fowl, poultry or fish, or his Majesty's game, and be convicted thereof, on oath of one witness, before one justice, every officer so offending, shall forfeit 5l. to the poor; and the commanding-officer upon the place, for every offence committed by any soldier under his command, shall forfeit 20s. in like manner; and if, on conviction, he shall not pay the money in two days after the demand

(i) So that the seller may inform against the buyer, or the buyer against the seller.

(k) The word "inferior" seems to be applicable to the man, rather than the trade; so that, of two persons of the same trade, one may be a superior, the other an inferior tradesman. This must be left to the jury to determine. Burn, GAME.

(l) For no man can come upon another's ground to kill game, qualified or not, without being liable to an action of trespass. Only, if he is qualified, and the damage found shall be under 40s. he shall in such case pay no more costs than damages. But an unqualified person, so trespassing, shall pay full costs. 2 Bac. Abr. 613.

thereof,

thereof, to the constable or overseers of the poor, he shall forfeit his commission.

33. No person, of what estate, degree, or condition he be, shall trace, destroy, and kill any hare in the snow, with any dog, bitch, bow or otherwise, upon the pain of forfeiting 6s. 8d. 14 and 15 H. 8. c. 10.

34. Every person tracing or coursing any hares in the snow, shall, on conviction, forfeit 20 s. for every hare, or be committed for three months, unless, in one month after his commitment, he find two sureties, bound in 20 l. each, not to offend again in like manner.

1 J. c. 27.

35. If any one shall be caught setting or using any hare-pipes, or other like engines, and shall be convicted on oath of one witness, before one justice, in one month after the offence, he shall give to the party injured such damages as the justice shall appoint, and pay a sum not exceeding 10s. as the justice shall appoint, or be committed for a term not exceeding one month. 22 and 23 C. 2. c. 25. f. 6.

36. If any person whatsoever shall take or kill any hare in the night-time, he shall, on conviction before one justice, on oath of one witness, forfeit 5 l. by distress; for want of distress be committed for three months for the first offence, and four months for every other. 9 An. c. 25. f. 3.

37. If any person shall wilfully, on any pretence, kill, take or destroy, or use any gun, dog, snare, net, or other engine for taking or destroying any hare in the night, between one hour after sun-set, and one hour before sun-rising, and shall be convicted thereof, on the oath of one witness, before one justice, he shall, for the first offence, be committed for a term not exceeding six calendar months, nor less than three; for the second offence, for a time not exceeding twelve months, nor less than six; and shall also, within three days of the time of his commitment, either for the first or second offence, be publicly whipped in the town where the prison is, between twelve and one in the day. 10 G. 3. c. 19. See No. 46, 51, 52, 53.

38. Persons aggrieved may appeal to the general quarter-sessions. Ibid.

39. If any person shall, on a Sunday, take or kill any hare, or use any dog, snare, or instrument for killing or taking any hare, and shall be convicted, on the oath of one person, before one justice, he shall forfeit from 20l. to 30l. by distress, half to the informer and half to the poor. For want of distress, he shall be committed for a time not less than three months, nor more than six. Ibid. See 40, 54.

40. If any person shall, upon a Sunday or Christmas-day, in the day-time, wilfully take or kill any game, or use any gun, dog, net or engine for so doing, he shall be subject to the like penalties as in No. 39. 13 Geo. 3. c. 55. s. 7. See No. 39, 54.

41. Every person who shall shoot at or kill any hare, with any gun or bow, shall pay 20s. for every hare, or be committed for three months, unless, within a month after his commitment, he find two fureties in 20l. a-piece, not to offend in like manner again. 1 J. c. 27. s. 4.

42. If any manner of persons shall hunt with spaniels, in any ground where corn or grain is growing, (except his own) when such corn or grain is in ear, and before it be shocked or cocked, he shall forfeit 40s. to the owner of the corn; and if not paid in ten days, shall be imprisoned for a month. 23 Eliz. c. 10. s. 5.

43. If any person, armed and disguised, shall appear in any hare-warren, and rob the same, or (whether armed and disguised or not) shall rescue any person in custody for the said offence, or procure any to join with him in any such act, he shall suffer death. 9 G. c. 22.

44. No person shall wilfully kill, carry, sell, buy, or have in his possession or use, any black game, between December 10 and August 10; red game between December 10 and August 12; nor any bustard between March 1 and September 1, on pain of forfeiting from 10l. to 20l. for the first offence, and from 20l. to 30l. for every future one, to be sued for at law, provided the action be brought within six calendar months after the offence committed. 13 G. 3. c. 55. s. 1, 2, 3. See No. 45, and 6, 7, 27, 28, 30, 50.

45. Or it may be recovered by information, within three months after the offence, before any justice of peace,

peace, and the penalty levied by distress, half to the informer and half to the poor. For want of distress, such justice may commit the offender from three to six calendar months, or till the money be paid. S. 4, 9.

46. If any person shall wilfully kill or take any game, or use any dog, gun, net, or other engine, so to do between seven at night and six in the morning, from October 12 to February 12, and between nine at night and four in the morning, from February 12 to October 12, he shall forfeit from 10 l. to 20 l. for the first offence; from 20 l. to 30 l. for the second; for the third offence he shall be committed till the next general quarter-sessions, unless he give bail to appear at such sessions, there to be indicted; and if, on such indictment, he be convicted, he shall forfeit in court 50 l. or be committed from six to twelve months, unless the money is sooner paid; and, if the justices think proper, he shall be publicly whipped in the town where the prison is, between twelve and one o'clock in the day. S. 2. One half to the informer and half to the poor. S. 5. See No. 37, 51, 52, 53.

47. No person, of what condition he be, shall take or cause to be taken, any pheasants or partridges, by nets, snares, or other engines, out of his own warren, upon the freehold of any other person, without the special licence of the owner or possessor of the same, on pain of 10 l. half to him that shall sue, and half to the owner or possessor of the ground where they shall be taken. 11 H. 7. c. 17.

48. Every person who shall shoot at, kill, or destroy any pheasant or partridge, with any gun or bow, or shall take, kill or destroy them with setting dogs or nets, or with any manner of nets, snares, engines or instruments whatever, or shall take their eggs, out of the nest, or spoil them in the nest, shall, on the oath of two witnesses, on conviction, be committed for three months, unless he pay 20 s. for every pheasant, partridge, or egg, or, after one month after his commitment, find two sureties, in 20 l. each, not to offend in like manner again. 1 J. c. 27. f. 2.

49. Every person who shall take, kill or destroy any pheasant or partridge with setting dogs and nets, or otherwise with any manner of nets, snares or engines,

shall, on conviction, on oath of one witness, be committed for three months, unless he pay 20 s. for every pheasant or partridge, and bind himself to pay 20 l. if ever he kills any pheasant or partridge again. 7 J. c. 11.

50. Every person who shall sell, or buy to sell again, any partridge or pheasant (except they be reared and brought up in houses, or brought from beyond sea) shall forfeit 10 s. for every partridge, and 20 s. for every pheasant. 1 J. c. 27. s. 4. See No. 6, 7, 27, 28, 30, 44.

51. If any person, of what state, degree or condition soever, shall take or kill any pheasants or partridges in the night-time, he shall forfeit for every pheasant 20 s. and for every partridge 10 s. or be committed for one month, or shall give security not to offend again in like manner for two years. 23 Eliz. c. 10. See No. 37, 46, 52, 53.

52. If any person whatsoever shall take or kill any pheasant or partridge in the night-time, he shall, on the oath of one witness, before one justice, forfeit 5 l. by distress, or, for want of distress, be committed for three months; for the first offence, and for every other offence four months. 9 An. c. 25. See No. 37, 46, 51, 53.

53. If any person shall wilfully take or kill, or use any gun, dog, snare, net, or other engine, for taking or killing any pheasant or partridge in the night, between one hour after sun-set and one hour before sunrise, he shall, on the oath of one witness before one justice, for the first offence, be committed for a time, from three months to six; for a subsequent offence from six months to twelve, and shall, within three days after his commitment, for each offence, be publicly whipped in the town where the prison is, between twelve and one in the day. 10 G. 3. c. 19. See No. 37, 46, 51, 52.

54. Any person in like manner convicted of taking or killing, or using any gun, &c. to take and kill any pheasant or partridge on a Sunday, shall forfeit from 20 l. to 30 l. by distress, half to the informer and half to the poor; or, for want of sufficient distress, be committed

mitted for a time, from three months to six. Ibid. See No. 39, 40.

55. Every person who shall hawk at or kill any pheasant or partridge with any kind of hawk or dog, under colour of hawking, between July 1, and August 31, shall on the oath of two witnesses, in six months after the offence, be committed for one month, unless he pay 40s. for every such hawking at any pheasant or partridge, and 20s. for every one he shall take or kill. 7 J. c. 11. f. 2.

56. No person shall take, kill, carry, sell, buy, or have in his possession or use any partridge between February 12, and September 1; or any pheasant between February 1, and October 1, yearly, on pain of forfeiting 5l. if sued for in the courts of Westminster, with full costs. But this not to extend to any pheasant taken in the season, allowed by this act, and kept in any mew or breeding place. 2 Geo. 3. c. 19.

57. For the better preserving the black and red game, no person shall, on any mountains, hills, heaths, moors, forests, chafes, or other wastes, presume to burn, between February 2, and June 24, any grig, ling, heath, furze, goss, or fern, on pain of imprisonment for a time not exceeding one month, nor less than ten days, and being whipped and kept to hard labour. 4 and 5 W. c. 23. f. 4. Persons under this act must be prosecuted in the courts of Westminster, or at the assizes.

Judge Blackstone, on the Game-Laws, speaks thus:

The Game Laws do in fact qualify nobody, except in the instance of a game-keeper, to kill game; but only to save the trouble and formal process of an action by the person injured, who perhaps too might remit the offence: these statutes inflict additional penalties, to be recovered either in a regular or summary way, by any of the king's subjects, from certain persons of inferior rank, who may be found offending in this particular. But it does not follow that persons excused from these additional penalties are therefore authorised to kill game. The circumstance of having 100l. a year, and the rest

rest are not properly qualifications, but exemptions, and these persons so exempted from the penalties of the game statutes, are not only liable to actions of trespass by the owners of the land; but also, if they kill game within the limits of any royal franchise, they are liable to the actions of such who may have the right of chase or free warren therein. Vol. 2. Book 2.

1. If a man starts any game within his own grounds and follows it into another's and kills it there, the property remains in himself. 11 Mod. 75.

2. If a stranger starts game in one man's chase or free warren, and hunts it into another liberty, the property continues in the owner of the chase or warren. Lord Raym. 251.

3. If a man starts game on the private grounds of another and kills it there, the property belongs to him in whose ground it was killed. Ibid.

4. But if, after being started there, it is killed in the grounds of a third person, it is the property of the person who started it and killed it, though he is guilty of a trespass against both owners. Farr. 18. Lord Raym. 251.

5. But the common law allows the hunting of foxes and other ravenous beasts of prey, on the ground of another person; though a man may not dig and break the ground to unearth them, without leave. 2 Roll. 538. Cro. Jac. 321.

6. Persons wilfully shooting pigeons belonging to another shall forfeit 20s. to the prosecutor, or be committed to hard labour, from one month to three. Prosecutions to be commenced within two months. 2 G. 3. c. 29. But if the pigeons come upon my land, and I kill them, the owner has no remedy against me, though I may be liable to be fined by this statute. Cro. Jac. 492.

OF WILD DUCKS, GEESE, and other WATER FOWL.

1. Persons shooting any mallard, duck, teal or wild-geon, shall pay 20s. to the poor for each fowl, and give two

two sureties in 20l. each, not to offend again, or be committed for three months. 1 J. c. 27. f. 2.

2. No person shall take any wild ducks, mallards, widgeons, teals, or wild geese with nets or other engines, between May 31, and August 31, on pain of one year's imprisonment, and to forfeit 4d. to the king for each fowl, to be determined by the justices. 25 H. 8. c. 11. See No. 4. below.

3. But a gentleman or freeholder of 40 s. a year, may hunt and take such wild-fowl with spaniels only, using no nets. Ibid.

4. If any person between June 1, and October 1, shall take by nets, or tunnels, any wild-fowl in any place of resort for wild-fowl in the moulting season, and shall be convicted by one justice, on the oath of one witness, he shall forfeit 5 s. half to the informer, and half to the poor, to be levied by distress; or for want of distress be committed from fourteen days to one month, be whipped and kept to hard labour, and the nets shall be destroyed. 9 An. c. 25. f. 4.

5. No person, from March 31 to June 30, shall take or destroy the eggs of any water-fowl, on pain of one year's imprisonment, and one penny for every egg. 25 H. 8. c. 21.

ON FISHING.

1. If any trespassers in ponds be thereof attainted at the suit of the party, great and large amends shall be awarded, according to the trespass, and the offenders shall be imprisoned three years and fined to the king, and they shall give security not to offend again. If they cannot find surety, they shall abjure the realm (m). 3 Edw. 1. c. 206.

2. Persons unlawfully breaking or destroying the dam of a fish-pond, or wrongfully fishing therein, with an intent to take fish, shall on conviction at the assizes or sessions be imprisoned three months, pay treble da-

(m) Trespassers are those who endeavour to take fish therein. *1 Inst. 200.*

images, and find sureties for seven years, or continue in prison till they do. 5 Ed. c. 21. f. 2, 6.

3. Persons taking fish out of any water, without the consent of the owner, if convicted on the oath of one witness, before one justice, in one month after the offence, shall make the party injured recompence for the same, not exceeding treble damages, and shall pay 10 s. to the poor, to be levied by distress, and for want of it, be committed for a time not exceeding one month, unless he find one surety to join in a bond for 10 l. that he offend not in the same manner again. And all engines used for taking such fish shall be destroyed. 22 and 23 Car. 2. c. 25. f. 7, 8.

4. No disorderly or mean persons, except fishermen and their apprentices, shall keep nets and engines for taking fish, and the owner or occupier of any fishery may seize and keep to his own use such nets or engines, that he shall find laid or used, or in the possession of any person fishing in his fishery without his consent; and any person with a justice's warrant, may search suspected places for such nets or engines, and seize and keep the same or destroy them. 4 and 5 W. 3. c. 23. f. 5, 6.

5. If any person shall enter into any park, garden, orchard, or yard adjoining or belonging to any dwelling-house ground, through which any stream of water shall run, or in which shall be any pond, and steal or destroy any fish bred or kept therein, without the owners consent, or be aiding thereto, or shall buy or receive such fish knowing it to be stolen or so taken, to be convicted within six calendar months after the offence, he shall be transported for seven years. 5 G. 3. c. 14. f. 12.

6. And if any person shall take, kill, or destroy, or attempt so to do, any fish in any stream, or pond, not being in any park, garden, orchard, or yard adjoining or belonging to any dwelling-house, but in any other enclosed ground being private property, he shall on conviction before one justice, on the oath of one witness, forfeit 5 l. to the owner of the water, and in default of payment shall be committed for a time not exceeding six months; unless the money be sooner paid;

or such owner may bring an action at law, within six months, against the offender (n). Ibid. f. 3, 4.

7. By the Black Act, if any person armed or disguised shall steal any fish out of any river or pond, or (whether armed and disguised or not) shall maliciously break down the head or mound of any fish-pond, whereby fish shall be lost, or shall rescue any person in custody for such offence, or procure any other to join with him therein, he shall suffer death.

OBSERVATION ON FISHING.

It has been held, that where the lord of the manor hath the soil on both sides of a river, it is good evidence that he hath the right of fishing; but where a river ebbs and flows, and is an arm of the sea, there it is common to all. In the Severn, the soil belongs to the owners of the land on both sides, and the soil of the Thames is in the king, but the fishing is common to all. 1 Mod. 105.

(n) Under this clause the lord doth not seem to have an exclusive right to all fish within his manor, any more than to other game. Burn, GAME.

DOGS.

1. **PERSONS** stealing dogs, or selling, buying, or receiving dogs, knowing them to be stolen, shall on conviction before two justices, on the oath of one witness, forfeit; for the first offence, from 20 l. to 30 l. half to the informer and half to the poor, or be committed from six to twelve months, or until the penalty and charges be paid; for the second offence shall forfeit from 30 l. to 50 l. or be committed from twelve to eighteen months, if the money is not sooner paid, and the offender shall be publicly whipped. 10 Geo. 3. c. 18. s. 1.

2. And in case such dog or dogs, or his skin, shall be found on a search warrant, if it shall appear that such person was privy to the stealing, or knew the skin was stolen, he shall be liable to the penalties as in No. 1.

OBSERVATIONS ON DOGS.

1. An action of trover will lie for recovering a mastiff, greyhound, spaniel, or tumbler. 1 Cro. 125. 2 Cro. 44.

2. A man hath a property in a mastiff, and where a mastiff falls on another dog, the owner of that dog cannot justify killing the mastiff, unless there was no other way to save his dog. 1 Saund. 84. 3 Salk. 139.

3. The owner of a mastiff going in the street unmuzzled (which is a nuisance from his ferocity) may be indicted. Burn, Dogs.

4. The owner of a dog, knowing that he will kill sheep, if he kills one, is liable to an action, but if he is ignorant of such quality, he shall not be punished for this killing. Dyer, 25. Het. 171.

5. If a man keeps a dog accustomed to bite sheep, and he knows it and yet keeps him, and he afterwards bite a horse, this shall be actionable; because, as a mischievous dog, he ought to have destroyed him, or tied up him. Ld Raym. 110.

STRAYED

STRAYED CATTLE.

1. **A**N estray is where any horse, sheep, hog, beast or swan, do come into a lordship, where the owner has no right of common, and is not owned by any one. Kitch. 23. Dalt. Sher. 79.

2. Estrays may be seized by the lord of the manor, who should have them proclaimed in the two next market-towns, on the market-days, and at the church-door on a Sunday, as the people come out of church, otherwise the owner may take the estrays at any time. Kitch. 23, 81, 105. Dalt. Sher. 79. Cro. Eliz. 716.

3. After the lord hath had the beast a year and a day, from the time of the proclamation, if not owned it becomes his property. 11 Mod. 89. Kitch. 23, 80, 81.

4. If the estray, within the year, stray out of the manor, the lord may chase it back, unless it be seized by another lord who hath estrays, who should then proclaim it anew, as the first lord loses his property in it. Finch. 177. Kitch. 81. Hutt. 67.

5. He who taketh an estray may keep it, until he be satisfied for the finding, keeping, and proclaiming thereof. Dalt. Sher. 79.

6. But the owner, if within the year and a day, may take it, without telling any marks, or proving his property: but this may be done on the trial, if contested. 2 Salk. 686.

7. When the lord demands his amends, if the party thinks it unreasonable, he may tender sufficient amends; and if the lord does not accept it, it must be settled by a jury. Ibid.

8. An estray is not to be used, except in cases of necessity, as to milk a cow or the like, but not to ride a horse; for within the year and a day the lord hath no property in him. Cro. Jac. 147, 8.

9. The king's cattle cannot be estrays or forfeited. Kitch. 81.

E

CLERGY,

CLERGY.

1. **T**HE bishop, on the nomination of any curate to be licenced, is authorised to enjoin the rector or vicar so nominating, to pay the said curate any salary for the duty he performs, not exceeding 50 l. a-year, nor under 20 l. in proportion to the duty to be performed, and the value of the living. 12 Ann. c. 12. §. 1.

2. And where any dispute shall arise between the curate and any rector or vicar, respecting such salary, the bishop, on complaint, shall summarily hear and determine the same, and may sequester the profits of the benefice, till satisfaction be made (a). Ibid. §. 2.

3. If any person shall, for any sum of money, profit or advantage, directly or indirectly, or for or by any reason of any promise or agreement whatever, in his own name, or in the name of any other person, procure or accept the next avoidance of, or presentation to, any benefice with cure of souls, dignity, prebend or living ecclesiastical, and shall be presented or collated thereupon, that then evrey such presentation or collation, and every admission, &c. shall be void, the churroh vacant, and the agreement shall be deemed simoniacal; and the person so enjoying such benefice; &c. shall be disabled to hold the same, and be subject to such ecclesiastical punishment and penalties, as if such corrupt agreement had been made after such benefice, &c. had become vacant. Ibid. (b).

4. If

(a) Licenced curates can only have this redress; such as are not licenced by the bishop must have recourse to common law, and prove the agreement, &c. Rights of the Clergy, 127.

(b) Blackstone, on this act, expressly says, that purchasing the next presentation of a benefice, the church being full at the time of such purchase, if the purchase be made by the person who is to hold it, is to all intents and purposes simony.

The OATH against SIMONY, to be taken before any one be admitted to a LIVING.

“ I ——— do swear, that I have made no simoniacal payment, contract or promise, directly or indirectly, by myself, or by any other,

4. If any person, or bodies politic, which have election, presentation, or nomination or assent in the choice or election of any fellow, scholar, or any other person, to have room or place in any churches, collegiate or cathedral, colleges, schools, hospitals, halls or societies, shall have, receive, or take any reward, directly or indirectly, for his voice or assent in electing any officer, fellow, scholar, or other person, to have any room or place in any of the said churches, &c. the place, room or office which such fellow, &c. shall have, shall be void; and as well the king, and every other person to whom the presentation or nomination shall belong, of any such room or place, may appoint any other, as if the person so offending were naturally dead. 31 Eliz. c. 6. f. 2.

5. And if any officer, scholar of any of the said churches, &c. (see above) shall, directly or indirectly, take or receive any profit or reward for the leaving or resigning up of the same, his room or place, for any other to be placed in the same, he shall forfeit double the money or value of the thing so received, &c. half to the king and half to him that shall sue. Ibid. f. 3. 10.

6. And every person by whom, or for whom any such reward shall be given or agreed to be paid, shall be incapable of that place or room for that time or turn, and they to whom it shall appertain may nominate, &c. any other person, as if the said fellow, &c. were dead, or had resigned. Ibid. f. 3.

7. And at the time of every election, nomination or presentation, as well this act, as the orders and statutes of the same places, concerning such church, &c. shall then and there be publicly read, on pain of forfeiting 40 l. half to the church collegiate, &c. where such of-

other, to my knowledge, or with my consent, to any person or persons whatever, for or concerning the procuring and obtaining of this ecclesiastical dignity, place, preferment, office or living (naming the same) nor will, at any time hereafter, perform or satisfy such kind of payment, contract or promise made by any other, without my knowledge or consent: so help me God, through Jesus Christ." Canon. 40.

fence shall be committed, and half to him that shall sue. Ibid. f. 4.

8. If any person, or bodies politic, shall for any reward, &c. directly or indirectly present or collate any person to any benefice with cure of souls, dignity, prebend, or living ecclesiastical, such presentation, collation, &c. shall be utterly void, and the king may present, &c. to every such benefice, &c. for that one time or turn only. Ibid. f. 5.

9. And every person, &c. (see above) that shall give or take any such reward, &c. directly or indirectly, or that shall take or make any such promise, &c. shall forfeit double the value of one year's profit of every such benefice, half to the king and half to him that shall sue. Ibid. f. 5, 10.

10. And the person so corruptly taking, procuring, seeking or accepting any such benefice, &c. shall thereupon be adjudged a disabled person to have or enjoy the same benefice, or &c. Ibid. f. 5.

11. And if any person shall directly or indirectly, for any reward, &c. (other than for usual and lawful fees) admit, institute, instal, induct, invest, or place, any (c) person in or to any benefice, &c. he shall forfeit double the value of one year's profit of every such benefice,

(c). 1. A donative is not within the words of the statute, but it is within the meaning. Cro. Car. 331. Bawderick and Mac-kaller.

2. Obtaining a curacy by such corrupt means, has been held to be simony. Carth. 485. Bp of St. David's and Lucy.

3. Buying, when a church is full, with an intent to present a certain person, and the presenting that person when the living becomes void, is simony. Lane, 102. Kitchen v. Calvert. Noy, 25. Winchcomb v. Pullestem.

4. If a contract be, when a church is full, to give a sum of money for a presentation to it when it shall be void, it is simony. 1 Brownl. 7.

5. Purchasing the next avoidance, with intent to present a son or kinsman, and presenting the person so intended, is also simony. Noy, 25. Godb. 390.

6. Purchasing the next avoidance of a church, when the incumbent is sick, or near dying, with intent to present a certain person, and the presenting him, is simony. Winch. 63. Sheldon v. Brett. Noy, 25. Hughes, 390. See 4 New Abr. 469.

benefice, &c. half to the king and half to him that will sue. Ibid. f. 6.

12. And thereupon, immediately after the investing, &c. the same benefice shall be estfoons merely void, and the patron may dispose of the said benefice, &c. as if the party so admitted were naturally dead. Ibid. f. 8.

13. Or if any incumbent of any benefice with cure of souls, shall corruptly resign (*d*) or exchange the same; as well the giver as the taker of any such benefit corruptly, shall lose (exclusive of the forfeiture of double value of one year's profit of the benefice, &c.) double the value of the sum so given, taken, or had, &c. half to the king, and half to him that will sue. Ibid. f. 8.

14. Or if any person whatever shall directly or indirectly take any reward, &c. (ordinary and lawful fees excepted) to procure the ordaining any minister, or giving of any orders or licence to preach, he shall forfeit 40 l. half to the king, and half to him that shall sue, and the person so corruptly ordained shall forfeit 10 l.; and if at any time within seven years after such corrupt centering into the ministry, he shall accept or take any benefice, &c. immediately after, the induction of the said benefice shall be void, and the patrons may present again. Ibid. f. 10.

15. Clergy shall not be arrested, nor taken out of any church or church-yard, whilst they are attending on divine service, on pain of imprisonment of the offender, and ransom at the king's will, and satisfaction.

7. A corrupt contract with the wife of the patron is simoniacal, though the patron is not privy to it. 1 Rol. Rep. 255. Cro. Jac. 385.

8. If a clerk contracts to give money for being presented to a church, and is afterwards presented gratis, it is simony. Lane, 103. Kitchen v. Calvert.

9. This offence may be, by a corrupt contract between strangers; even when neither the patron nor incumbent is privy to it; the presentee however, in this case, is not guilty of simony. Cro. Car. 331. Sid. 329. 3 Lev. 337.

10. A father, in the case of simony, cannot legally do what a stranger may not do. Noy. 25. Cro. Car. 446. Lutw. 343.

(*d*) A late determination of the House of Lords has decreed all bonds of resignation given to resign livings of no validity.

to the party arrested. 50 Edw. 3. c. 5. 1 Ric. 2. c. 15 (e).

16. Clergymen are liable to the poor-rates for their glebe and tithe (f). 43 Eliz. c. 2. f. 1.

17. No clergyman shall take to farm any lands, directly or indirectly, (except he has not sufficient glebe (g) for the expences of his household (h), on pain of 10l. a month, half to the king, and half to the suer. 21 H. 8. c. 13. f. 3. See No. 23. below.

18. Leases made to any clergyman, or other person for his use, are void (i). Ibid. f. 3.

19. No clergyman shall buy to sell again, any cattle, corn, lead, tin, hides, leather, tallow, fish, wool, wood, victuals, or any kind of merchandize, on pain of forfeiting treble the value, half to the king, and half to the suer, and the contract's being void; ibid. f. 6. except it be the produce of, or necessary for, the cultivation and pasturage of such lands as he is allowed to farm and hold. Ibid. f. 8.

20. No clergyman shall keep any tan-house, or any brew-house, directly nor indirectly, but for his own house, on pain of 10l. a month, half to the king, and half to the suer. Ibid. f. 32.

21. The ordinary may imprison clergymen for incontinency, at his discretion. 1 H. 7. c. 4. f. 1.

22. The ordinary may degrade clergymen guilty of felony. 23 Hen. 8. c. 11. f. 3.

23. No spiritual person, secular or regular, beneficed with cure, shall occupy by himself or by any other to his use any parsonage, or vicarage in farm, on pain of 40s. a week, and ten times the value of

(e) But though the officer may be punished in the spiritual or temporal courts, the arrest is held to be good notwithstanding, if not a Sunday. Watson, c. 34. p. 344.

(f) It seems to be generally settled, that clergymen are liable to all public charges, imposed by act of parliament, where they are not specially excepted. Burn. CLERGY.

(g) By this it is understood that the act only refers to incumbents.

(h) Under this idea, a farm of 200l. a year is thought reasonable for him to hold.

(i) But he cannot vacate any lease himself; as no man can take advantage of his own wrong.

such

such profits or rents, half to the king, and half to the
fuer. 21 Hen. 8. c. 13. f. 30.

24. Beneficed clergymen shall conform to the service
of the book of common-prayer (*k*), on pain of forfeit-
ing one year's income of their spiritual promotions
for the first offence, and suffering six months impris-
onment; of being deprived of their preferment, and
being imprisoned a year for the second; and of impris-
onment of life for the third. 1 Eliz. c. 2. f. 4, 5, 6.

25. Clergymen unbeneficed, not conforming as a-
bove, shall suffer a year's imprisonment for the first
offence; and imprisonment for life for the second (*l*).
Ibid. f. 7, 8.

26. Every clergyman promoted to any ecclesiastical
preferment, shall, if able, within two months next af-
ter being in possession of such preferment, on some
Sunday, read the morning and evening prayers, and
after such reading, declare before the congregation his
assent to the use of all things contained in the book
of common-prayer, on pain of being deprived of such
preferment. 13 and 14 Car. 2. c. 4. f. 6.

27. Incumbents of livings keeping curates, shall read
prayers in their churches and chapels once a month,
on pain of forfeiting 5*l.* to the poor. Ibid. f. 7.

28. A person laying violent hands on a clergyman,
may be punished in the ecclesiastical court, and the
king's prohibition shall not lie against it. 13 Edw. 1.
stat. 4. And shall do penance for the offence, unless
he satisfy the party aggrieved. 9 Edw. 2. c. 3. 2 Inst.
c. 20. (*m*).

29. Clergy may have the benefit of clergy a second
time (*n*). 4 Hen. 7. c. 13.

(*k*) If a clergyman in reading prayers shall stand or sit, when he
is appointed to kneel, or kneel when he should stand; he is punish-
able by this statute. Jac. Dist.

(*l*) Curates must subscribe the declaration according to the act
of uniformity, or are liable to imprisonment, &c.

(*m*) He may also be indicted at the sametime in the crown office,
and the party injured may also at the same time sue the offender in
the civil court for damages. Blackf. Comm.

(*n*) Also for a third offence. 2 H. H. 374, 375.

30. Clergymen on admission to the benefit of clergy, shall not be burned in the hand (o). Ibid.

31. A clergyman shall be arraigned of all his offences at once. 25 Edw. 3. c. 5.

32. A clergyman shall be fined only according to his lay tenements, and not after the quantity of his spiritual benefice. Mag. Charta. 9 Hen. 3. c. 14.

33. Every beneficed person shall reside upon his living, and in the parsonage house, if there be one; and if he wilfully absents for one month together, or for two months, to be accounted at several times in any one year, he shall forfeit 10l. for every such default, half to the king, and half to the suer. 21 Hen. 8. c. 13. f. 26. See 39 below.

34. The king's chaplains may hold as many livings of the king's gift, as he shall please to bestow on them, and shall not be bound to residence; nor shall the chaplains (p) of others, during the time they are waiting in the houses of their patrons. Ibid. f. 28.

35. Chaplains.

(o) But shall have the same privileges, as if they had been burned. 2 H. H. 389.

(p) 1. Each of the royal family may qualify as many chaplains as they please.

An archbishop may qualify	—	8 chaplains.
A duke	—	6 do.
A marquis and earl	—	5
A viscount	—	4
A bishop	—	6
A baron	—	3
A knight of the garter	—	3
The lord chancellor	—	3
The treasurer of the household	—	2
A secretary of state	—	2
The king's almoner	—	2
The dean of the chapel royal	—	3
The master of the rolls	—	2
The chief justice of the king's bench	—	1
The warden of the cinque ports	—	1
Judges, chancellor of the exchequer, attorney and solicitor.	} each	1
general		
Duchesses, marchionesses, countesses, and baronesses, widows	} each	2

See No. 35, 36, above. All these chaplains, if qualified agreeable to the 41st canon, may purchase a dispensation to hold two livings. 21 Hen. 8. c. 13.

35. Chaplains dwelling with the chancellor of the duchy of Lancaster, the chancellor of augmentations, the chancellor of first-fruits, the master of the king's woods and houses, every surveyor-general of the king's lands, the treasurer of the king's chamber, and the groom of the stole, who may each have one, who may hold only one living, and be non-resident on the same.

33 Hen. 8. c. 28. s. 2. but shall repair twice a-year to their livings, and reside eight days at least, on pain of forfeiting 40s. a time. Ibid. s. 3.

36. The son or brother of a lord, a bishop, a doctor, or bachelor of divinity or law, may purchase a dispensation to hold two livings, provided the degrees are taken at Oxford, or Cambridge. 26 Hen. 8. See note (o).

37. If any person having one benefice with cure, of the yearly value of 8l. or above, in the king's books, accepts of another benefice with cure, &c. is instituted and inducted, then the first shall be void. 21 H. 8. (q).

38. No.

2. If a woman noble by marriage, after marries a commoner, she loses her power of holding chaplains; but not, if she be noble by descent. 4 Rep. 118.

3. A person, retaining a chaplain, must not only be qualified at the time of granting the instrument, but he must continue capable of qualifying till his chaplain is advanced; and therefore if a duke, earl, &c. retain a chaplain and die, or be attainted of treason; or if an officer qualified to retain a chaplain be removed from his office, the chaplainship ends; but where a chaplain hath taken a second benefice before any thing of this kind happens, he may hold the two notwithstanding. Ibid.

4. If a nobleman dismisses his chaplains for any displeasure, after they are in possession of two livings, the chaplains may still hold them; and such nobleman, though he may retain other chaplains in his family, cannot qualify any others to hold pluralities, whilst the first are alive. 4 Rep. 90.

5. A chaplain must be retained by letters testimonial under hand and seal, or he is not a chaplain within the statute.

(q) 1. A man by a dispensation may hold as many benefices without cure as he can get; and likewise as many with cure as he can get, all of them, or all but the last, being under the value of 8l. a year in the king's books. Yet if a dispensation is made to hold three livings with cure, the first of which is of 8l. yearly value, the dispensation is void; unless it be in the case of the king's chaplains, who may hold three livings with cure above the value of 8l. a year, where one of them is in the king's gift. Hob. 148.

2. The

38. No deanery shall be taken as a benefice with cure, to need dispensation, on having another benefice, &c. 21 H. 8. 1 Leon. 316.

39. Vicars are to take an oath of perpetual residency, but this residence the bishop may dispense with. 4 H. 4.

40. None but priests are capable of any benefice, or dignity, or of administering the sacrament. 13 and 14 Car. 2. c. 4. f. 14.

41. All canons not repugnant to the king's prerogative, nor to the laws, statutes, and customs of the realm, shall be used and executed. 25 Hen. 8. c. 19. (r)

42. Leases granted by the clergy for more than twenty-one years, or three lives, shall be void. 15 Eliz. c. 10. f. 3.

43. And the clergy may recover the rent in the same manner as any landlord may do, by the laws now in being. 5 Geo. 3. c. 17. f. 3; See LANDLORD and TENANT f. 1. (s)

44. If

2. The two livings, held by dispensation, must be within the distance of thirty miles from each other, if not, in taking the second benefice, the first is void; and the patron may present again. Can. 41.

(r) 1. Agreeable to this statute, the present canons, made in 1603, had the royal assent, and were warranted by act of parliament, and of course are as binding as other statutes. Treatise of Laws, 402; &c. 1 Nels. Abr. 416.

(s) 1. If the successor of a parson or vicar accepts the rent of a lease for years made by his predecessor; yet this acceptance is worth nothing, for the lease is void by death; a lease for life is otherwise. LANDLORD and TEN. p. 25.

2. If a bishop accepts rent on a lease for years, he shall never avoid the same; it was before such acceptance voidable only, but that confirms it. Ibid.

3. If a parson lets a lease for years of his glebe-land, if it be confirmed by the patron and ordinary, it shall bind the successor, or else not. Ibid.

NOTES OF OBSERVATION.

1. Where a vicarage is not sufficient to maintain the vicar, the bishop may compel the rector to augment it. 2 Roll. Abr. 337. Pars. Counsell. 195, 196. Stat. 29 Car. 2. c. 8.

2. The causes of deprivation are many. If a clerk obtains preferment simonically; if he be excommunicated, a drunkard, fornicator, adulterer, infidel, schismatic or heretick, guilty of murder, manslaughter, perjury, forgery, &c. if illiterate and not able to perform his duty; if he is scandalous in his life and conversation; if he is a bastard and objected against him; (Fortescue 88, 89), if under twenty-three years of age; if disobedient to his ordinary; a non-

44. If any clergyman shall by words only quarrel or brawl in any church or church-yard, he may be suspended from his office, at the discretion of his ordinary. 5 and 6 Edw. 6. c. 14. f. 1.

45. The parson, vicar, or curate, shall publickly read the act for suppressing prophane cursing and swearing, in all parish churches and chapels, immediately after morning prayers, on the Sundays next after Midsummer-day, Michaelmas-day, Christmas-day, and Lady-day, on pain, if convicted before one justice, of forfeiting 5 l. to the king, to be levied by distress. 19 Geo. 2. c. 21. f. 13.

46. But no person shall be prosecuted on this act, unless within eight days after the offence committed. Ibid. f. 12.

47. When a brief is delivered to the minister to read, he is to indorse or write on the back, the time he received it, and openly read it on some Sunday within two months of such receipt, and the sums collected are non-conformist to the canons; if he refuse to use the common-prayer or preach in derogation of it; if he do not administer the sacrament, or read the articles of religion agreeable to act of parliament, &c.

3. No chapel can be built for the service of the church of England, in any parish, without the consent of the incumbent of the parish (who shall have the nomination of the minister) and the bishop's licence; except a nobleman qualified to keep chaplains, shall erect a chapel adjoining his house. Bishops, before they grant a licence, exact a bond from the builder to pay the minister of such chapel a stated salary.

4. Bishops may refuse their licence (except in the case of appointments to donatives, which are held by licence only) without assigning their reasons.

5. Clergymen are not bound to pay tolls at fairs or markets, or other like customs for their ecclesiastical goods. 2 Inst. 4. Gibs. 21. See 6. below.

6. And this not only for goods and merchandize gotten upon their church livings, but also for that bought to be spent on their rectories and church livings. Degge, 153.

7. Clergymen are exempt from all temporal offices, as those of sheriff, constable, church-warden, juryman, &c. and if chosen, may have a writ to be discharged. 1 Inst. 96.

8. A clergyman in the commission of the peace may act or not at his pleasure. Jac. Dist.

9. If a layman be admitted and instituted to a benefice, and doth administer the sacraments, marry, &c. these acts performed by him during the time he continues parson, in fact are good. 3 Cro.

to be indorsed in words at length, and signed by the minister, on pain of his forfeiting 20*l.* to the king.
4 An. c. 14.

48. All persons in orders shall, in their respective parishes, keep a register of all persons there buried; and some one of the relations of the party deceased, or other credible person, shall within eight days next after such interment, bring an affidavit in writing, under the hands and seals of two or more credible witnesses (and under the hand of the magistrate or officer, before whom the same was sworn, for which nothing shall be paid) to the minister, that the said person was not wrapped up in, or buried in any thing but woollen.
30 Car. 2.

49. And in case no such affidavit shall be brought to the minister where the said party was buried, within eight days, the minister shall give the church-wardens or overseers of the poor, notice thereof in writing immediately, under the penalty of 5*l.* to be recovered by any person who shall sue within six months of the offence. Ibid.

50. And the minister of every parish shall keep a register provided by the parish, and make a true entry of all burials within his parish; and of all affidavits brought to him, within the time limited as aforesaid, and where no such affidavit shall be brought him within the said time, he shall enter a memorial thereof in the said register, against the name of the party interred, and of the time when he notified the same to the church-wardens or overseers, on pain of forfeiting 5*l.* as above. Ibid. See No. 53. below.

51. If no justice of peace shall reside or be found in any parish where any party shall be interred, the minister of any parish or chapel of ease within the county, (except the minister of that place where the party is interred) is authorised and required to administer the oath to be made of any persons being interred in woollen, and to attest the same under his hand gratis.
32 Car. 2.

52. The officiating minister may demand 3*d.* of the undertaker or person employed about any funeral, or from any couple married, or from the parent of any person

person on requiring a child to be christened, for the registering of such death, marriage, or christening. 23 Geo. 3.

53. The church-wardens shall provide books with stamps for such registers, and in such parochial place, the person who keeps the register shall purchase the books, and shall be reimbursed by the receiver-general of the stamped duties; and no clergyman shall register any such funeral, marriage, or christening, but on three-penny stamps, on pain of forfeiting 5*l.*; and as a recompence to the clergyman for his trouble in receiving the money, he shall be allowed 2*s.* in the pound by the receiver. Ibid.

54. Every clergyman marrying any couple without publication of banns, or licence, shall forfeit 100*l.* half to the king, and half to him that sues. 7 W. 3. c. 35. f. 2, 3. See f. 55, 60, below.

55. If any clergyman permits another to do it in his church or chapel, he forfeits the same. Ibid. f. 3.

56. Banns are to be published in the parish church of the parties, and they are to be married at one of the said churches, and no other. 26 Geo. 2. c. 33. f. 1.

57. No clergyman shall be obliged to publish such banns, unless notice of the names, places of abode, and the time of residence of the parties (*a*) be given to him seven days before. Ibid. f. 2.

58. No clergyman shall be punishable for marrying any couple (after banns published) without consent of parents, or guardians, unless they have notice of such dissent prior to the ceremony. Ibid. f. 3.

59. Proof of the parties dwelling in the parishes, after the marriage, is not necessary to its validity. Ibid. f. 10.

60. If any clergyman shall marry any couple in any other place than a church, or public chapel, unless by special licence of the Archbishop of Canterbury, or without publication of banns or licence, in a church or chapel, he shall (on prosecution in three years) be transported for fourteen years, (but not to extend to Scotland) and the marriage shall be void. Ibid. f. 8, 9, 17.

(*a*) Residence sufficient for marriage in any parish is four weeks.

61. No parson or vicar shall cut down trees in church-yards, but for the repair of the church. 35 Ed. stat. 2.

62. All ecclesiastical persons shall take the oaths of allegiance and supremacy. 1 Geo. c. 13.

63. No lecturer shall preach without a licence from the bishop, and assenting to the thirty-nine articles, and reading the common-prayer before his first sermon, and on the first lecture day of every month, on pain of three months imprisonment for every offence, by two justices, on certificate from the bishop of the offence committed. 13 & 14 Car. 2. c. 4. s. 19, 20, 21.

64. Ministers are bound to read morning and evening prayers, on every holiday, on the 5th of November, the 30th of January, and the 29th of May, as on the Lord's day. 1 Eliz. c. 2.

65. Clergy called to convocation, shall have their persons sacred as members of parliament. 8 Hen. 6. c. 1.

66. Clergy appointed to prisons, may be discharged by the justices in sessions, if thought unworthy of their office. 13 G. 3. c. 58.

EXTRACTS FROM THE CANONS. See No. 41. above.

1. All ministers shall observe the orders, rites, and ceremonies prescribed in the book of common-prayer. Can. 14.

2. Ministers are to give notice publicly at morning prayers, the Sunday before the administering the sacrament. Can. 22.

3. Surplices and hoods (according to the degree of the wearer) shall be regularly worn in the cathedral churches during divine service, by all deans, canons, and prebendaries being graduates. Can. 25. See 22. below.

4. No minister shall admit to the communion any of his congregation openly known to live in notorious sin, without repentance, nor any who have maliciously and openly contended with their neighbours, until they be reconciled; nor any church-wardens or fidelesmen

men who have fworn, to present all public offences to their ordinaries, which they are particularly charged to enquire into and have not done it; nor to any who refuse to kneel, or be present at public prayers, except they shall acknowledge before the church-wardens, or in writing, that they will do so no more; nor any person not belonging to that parish where the communion is administered. Can. 26, 27, 28.

5. No parent shall be admitted to stand as godfather for his own child, or any person suffered to be a sponsor at a christening, before the said person hath received the communion, Can. 29.

6. No deacon or minister shall be ordained, but on the Sunday immediately following the Ember weeks. Can. 31.

7. No person shall be ordained deacon and priest on the same day. Can. 32.

8. No person shall be ordained, except he shall produce to the bishop a presentation of himself to some ecclesiastical preferment then void in that diocese, or a certificate that he is appointed to some curacy in the diocese, or to some minister's place, vacant either in the cathedral church of the diocese, or in some other collegiate church therein situate, or that he is a fellow, or in right as a fellow, to be a conduct or chaplain in some college in Cambridge or Oxford; or except he be a master of arts of five years standing, that liveth at his own charge in either of the universities; or except by the bishop that ordains him he be shortly after to be admitted to some benefice or curacy then void; on pain of the bishop being obliged to keep and maintain him, till he gives him a living. Can. 33. See 37. below.

9. To be ordained deacon, a man must be twenty-three years old; to be a priest twenty-four years complete: he must have taken some degree in either of the universities, or at least be able to yield an account of his faith in Latin; and he must produce a testimonial of his good life and conversation, under the seal of some college of Cambridge or Oxford, where he resided; or of three grave ministers, together with the subscriptions and testimony of other credible persons

who have known him for three years next before.— And he must be ordained by the bishop of his own diocese, or procure letters dismissory from that bishop to another. Can. 34.

10. No person shall be admitted to a living, nor suffered to officiate as a clergyman, unless licenced by the bishop of the diocese, prior to which he is to subscribe to the following articles:—1. That the King is the head of the Church—2. That he will use the book of common prayers—and 3. That he approve of the thirty-nine articles of religion. Can. 36, 37.

11. A minister omitting to use the form of common prayer, after such subscription, shall be suspended; if, after a month, he does not conform, he shall be excommunicated; and, if he does not submit then, in another month he shall be deposed from the ministry. Can. 38.

12. No bishop shall institute any to a benefice who hath been ordained by any other bishop, except he bring with him his letters of orders, and a testimonial of his good life and behaviour, if required, and shall, on examination, appear worthy of the ministry. Can. 30.

13. To hold two livings, a minister shall appear, by examination before the bishop, worthy, in point of learning; must be a master of arts in one of our universities, be a licenced preacher, and the said livings must not be more than 30 miles distant from each other. Can. 41. See No. 36, above, and note (o).

14. Deans must reside at their deaneries ninety days in every year, unless dispensed with by the bishop, and shall preach when there. Prebendaries and canons (not residentiaries) shall reside one month in every year, and shall preach when there; if sick they shall appoint others, as the bishop shall approve, on pain of being punished by the bishop, according to the offence. Can. 42, 43, 44.

15. Beneficed clergymen, &c. residing on their livings, shall preach one sermon every Sunday, either in their own church, or in some adjoining church, where no preacher is. Can. 45.

16. No curate shall be permitted to serve in any place without the approbation of the bishop. Can. 48.

17. No stranger shall be permitted to preach in any church or chapel, till he hath first shewed his licence. And the names of such preacher shall be set down in a book kept for the purpose. Can. 50, 52.

18. No one preacher in the pulpit shall oppose another in doctrine, without the bishop's consent. Can. 53.

19. The licence of preachers not conforming to the rules of the Church shall be void. Can. 54.

20. The clergy to use no prayer before their sermons than such as is prescribed in the 55th Canon. Can. 55.

21. Every beneficed clergyman and lecturer shall read prayers, morning and evening, on two severall Sundays, publickly, each year, in the church he belongs to; and shall also, as often, administer the sacrament and baptise, (if there be any to be baptised) on pain of the former being suspended, and the latter removed by the bishop, till they submit to perform all the duties. Can. 56.

22. Officiating clergymen shall wear such hoods over their surplices as are agreeable to the order of their degrees, which no minister (but a graduate) shall wear, on pain of suspension. Can. 58.

23. Every parson, vicar and curate, on every Sunday and holiday, before evening-prayers, shall catechise the children and ignorant persons of his parish, on pain of being reprimanded by the bishop for the first offence, suspended for the second, and excommunicated for the third. Can. 39.

24. At times of confirmation, ministers, having cure of souls, shall prepare and instruct the children, prior to their being by them presented to the bishop. Can. 61.

25. Ministers shall announce the holidays in church, the Sunday before, on pain of censure. Can. 64.

26. The minister or his curate, when any one is dangerously sick, at his peril, if he have knowledge of it, and the disorder be not suspected to be infectious, shall visit the sick person to comfort him, Can. 67.

27. No minister shall refuse to christen any child brought to church on Sundays or holidays, or to bury any corpse brought to the church or church-yard, (he having proper notice of the same) on pain of suspension for three months. Can. 68.

28. A minister, informed of the real danger of an infant's dying unbaptised in his parish, shall, if desired, go and baptise the same; and if he refuse or omit the same, and the infant die unbaptised, he shall be suspended for three months, and till he acknowledges his fault, and promises before his ordinary not to offend again. Where there is a curate, this shall not extend to the rector or vicar. Can. 69.

29. Ministers shall not preach or administer the sacrament in private houses, unless in times of necessity, and to the sick who cannot go to church, on pain of suspension for the 1st offence, and excommunication for the second. Can. 71.

30. Ministers shall go grave and decent, becoming their functions, and not wear any light-coloured stockings. Can. 74.

31. No ecclesiastical person shall, otherwise than from necessity, frequent any taverns or ale-houses, or lodge or board in such places, nor shall accustom themselves to any low or servile labours, or to drinking or riot, spending their time idly at dice or cards, or other unlawful games, on pain of severe censures. Can. 75.

32. No man admitted a deacon or priest shall voluntarily relinquish the same, on pain of excommunication. Can. 76. Deacons, by a resolution of the House of Commons, 1785, may sit as members of Parliament.

33. No parish-clerk in London, or the province of Canterbury, shall be chosen but by the rector or vicar, or by the minister of the place for the time being, and the said clerk shall be twenty years old. Can. 91.

34. Rectors and vicars, or, in their absence, their curates, may join in every presentment with the church-wardens, or present themselves, at any time, all such crimes as shall be thought to need reform, unless they hear

hear of such crimes, by confession, in which case they are not to divulge them. Can. 113.

35. To be a surrogate, it is necessary to be a benefited man, and a batchelor of law, or master of arts, at least. Any misconduct is punished with suspension for three months. Can. 128.

36. The whole fees for shewing letters of orders, at visitations, are only to be paid at the next bishop's visitation, after his admission to the bishoprick; at every other visitation, only half the fees are to be paid. Can. 137.

37. Persons who have resided any considerable time out of the university, shall, in order to be ordained, bring a certificate, signed by the minister and other credible inhabitants of the parish where he so resided, expressing, that notice was given in the church, in time of divine service, on some Sunday, at least a month before the day of ordination, of his intention to offer himself for orders at such a time; that any person who knows any impediment or notable crime, for which he ought not to be ordained, may have an opportunity to object against him. Abp. Cant. Directions to the Bishops, 1737.

Directions concerning the proper Instruments to be brought to the Bishop, for obtaining Orders, Institution and Licences.

1. The candidate's name, and place of abode.
2. Certificate of the publication in church, as by No. 37, above.
3. Letters testimonial of his good life and conversation, as by No. 9.
4. Certificate of his age, from the register-books under the hands of the minister and church-wardens of the parish where he was born.
5. Title on which he is to be ordained, as by No. 8. For the form of a title, see p. 70.

Note, The above are to be transmitted to the bishop, at least twenty days before the time of ordination.

6. A

6. A candidate for priest's orders must also exhibit to the bishop his letters of orders for deacon.

Note, An examination, in point of learning, is required for orders.

For Institution.

Before it.

1. The presentation to be tendered to the bishop, and left with him to be considered.
2. The orders of deacon and priest to be exhibited to the bishop.
3. Testimonials of his former good life and behaviour, if the bishop requires it; and if he comes out of another diocese, then a testimonial from the bishop or ordinary of the diocese or place from whence he comes.

After it.

1. To compound for his first-fruits, at the office of First-Fruits, unless it be a living discharged, either as being a vicarage not exceeding 10l. a year, or a parsonage not exceeding 10 marks in the king's books, or else as not exceeding 50 l. a year clear value.
2. To carry the mandate of induction to the proper office of the person to whom it is directed; and after induction into the church, to receive a certificate thereof from the person who inducts him.
3. To read the common prayer, and declare assent and consent, within two months next after actual possession, unless dispensed with by the ordinary upon some lawful impediment.
4. To make the declaration in the church, that he will conform to the liturgy of the church of England, as it is now by law established, and then to read the certificate of his having subscribed it before the bishop. This to be done within three months after institution.
5. To read the thirty-nine articles, in time of common prayer, with a declaration of his unfeigned assent thereunto, within two months after induction.
6. To take the oath of abjuration, within three months after institution, either in one of the courts of Westminster,

Westminster, or at the general quarter-sessions of the peace of the county, city, or place where he resides,

For a Licence to a Curacy.

1. A nomination from the incumbent, in which is to be expressed the salary proposed to be allowed for serving the cure.
2. To exhibit to the bishop his letters of orders.
3. To bring letters testimonial from his college; or, if he come not immediately from college, then to bring them from the neighbouring clergy, where he has dwelt for some time before, if in the bishop's own diocese.
4. In case he come from another diocese, then to bring letters testimonial from the bishop or ordinary of the diocese or place from whence he comes; or, if unknown to the bishop, to bring such a testimonial from three clergymen, and procuring from the bishop of their diocese a certificate of their character and probity.
5. Within three months after he is licenced to a perpetual curacy, to read in the church the declaration and certificate, as directed in No. 4, after Institution. See p. 68.

For a Licence to a Lecture.

1. To bring to the bishop a certificate from the minister and churchwardens of his having been duly elected, or an appointment under hand and seal of the person or persons who have power to appoint.
2. To do as directed in No. 2, 3, 4, 5, for a licence to a curacy. See above.
3. To read the thirty-nine articles in the presence of the bishop.

For a Dispensation to hold two Livings.

1. To obtain of the bishop in whose diocese the livings are, two certificates of the value of each in the king's books, and the reputed value and distance of such livings, one certificate for the archbishop of Canterbury, and the other for the lord chancellor; and if the

the livings be in two dioceses, then two such certificates are to be obtained from each bishop.

2. To bring two papers of testimonials from the neighbouring clergy, of his good life and conversation, as in the former instructions.

3. To exhibit to the archbishop his letters of orders of deacon and priest.

4. To exhibit to his grace a certificate of his having taken the degree of master of arts, at least in one of the universities of this realm, and under the hand of the register of such university, in pursuance of the 41st canon. See No. 13, above.

5. In case he be not doctor or batchelor of divinity, or civil law, he must be chaplain to some nobleman or other person empowered to qualify chaplains; (which is also duly to be registered in the faculty office, in order to be tendered to the archbishop) and if he hath taken any of the above degrees, he is to procure a certificate thereof before mentioned, and exhibit it to the archbishop.

Note, An examination in point of learning is required for dispensation.

FORMS of divers INSTRUMENTS of general use to the Clergy.

No. 1. A Title for Orders.

To the Right Reverend Father in God, Thomas Lord
Bishop of London.

These are to certify to your lordship that I, A. B. rector (or vicar) of _____ in the county of _____ and your lordship's diocese of London, do hereby nominate and appoint C. D. to perform the office of a curate in my church of _____ aforesaid; and do promise to allow him the yearly sum of _____ for his maintenance in the same, and to continue him to officiate in my said church, until he shall be otherwise provided of some ecclesiastical preferment, unless by fault by him committed, he shall be lawfully removed from _____

from the same (a). And I hereby solemnly declare, that I do not fraudulently give this certificate to entitle the said C. D. to receive holy orders, but with a real intention to employ him in my said church, according to what is before expressed. Witness my hand this — day of —, in the year of our Lord

Note, The foregoing form may be used for the nomination of a parochial or stipendiary curate, omitting the last clause.

No. II. *The following form may be used for a Certificate of a Clergyman's having read the Common-prayer, &c. as required to be done by him on his admission to a benefice.*

Memorandum, That on Sunday the — day of — in the year of our Lord — A. B. rector of C. within the diocese of London, and county of Essex, did read in his parish church of C. aforesaid, publicly and solemnly, the morning and evening prayers of the church; and, immediately after reading the same, the said A. B. did publicly before the congregation there assembled, declare his assent and consent to all things contained and prescribed therein; also, that he did publicly, on the day and year aforesaid (b), in the time of divine service read a certificate under the hand and seal of the Right Reverend Father in God, Thomas Lord Bishop of London, in the following words, (the certificate verbatim) and immediately after reading thereof, did in the same place, the congregation then present, declare that he would conform to the liturgy of the church of England, as it is now by law established; and that on the day and year aforesaid, the said A. B. did read the articles of religion in the parish church aforesaid, in the time of divine service there,

(a) The curate after this cannot be removed till better provided for, unless the rector or vicar thinks proper to do the duty of the church himself; and should such rector or vicar consent to it in order to remove him, and afterwards employ another curate, the former one, if unprovided for, can return to his curacy, if he thinks proper.

(b) If done on the same day, but if on any other day within the three months, the certificate of these things may be made separately, as the case shall require.

and

and did declare his unfeigned assent and consent thereto: and these things we promise to testify upon oath, if called upon for that purpose. In witness, &c.

No. III. *Letters testimonial for Orders.*

To the Right Reverend Father in God, R. by divine permission Lord Bishop of P.

Greeting,

Whereas our well-beloved in Christ, R. M. bachelor of arts, hath declared to us his intention of offering himself a candidate for the sacred office of a deacon, and for that end hath requested of us letters testimonial of his learning and good behaviour; we therefore, whose names are hereunto subscribed, do testify that the said R. M. having been personally known to us for the space of three years last past, hath, during that time, lived piously, soberly and honestly, and diligently applied himself to his studies; nor hath he, at any time, (as far as we know or have heard) maintained or written any thing contrary to the doctrine and discipline of the church of England: and moreover think him a person worthy to be admitted to the sacred order of a deacon. In witness, &c.

No. IV. *Letters testimonial for Institution.*

To the Right Reverend Father in God, R. by divine permission, Lord Bishop of P.

We, whose names are hereunder written, testify and make known, that the Reverend A. B. clerk, master of arts, vicar of B. in the county of C. and diocese of D. having been personally known to us, for the space of three years last past, hath during that time lived piously, soberly, and honestly; nor has he at any time (as far as we know or believe) held, written, or taught any thing contrary to the doctrine or discipline of the church of England. In witness whereof we have hereunto set our hands. Dated the day of in the year of our Lord.

No. V.

No. V. *Qualification of a Nobleman's Chaplain.*

To all and singular to whom these presents shall come, I, Sackville, Earl of T. send greeting: Know ye that I, S. Earl of T. for and on account of the great probity of life, integrity of morals, and proficiency in sacred learning, of J. D. Clerk, M. A. have nominated, appointed, taken, admitted, and by these presents do nominate, appoint, take and admit him, the said J. D. into the number of my domestic Chaplains, to serve me in the performance of divine offices within my house or chapel, by virtue whereof it shall and may be lawful to and for him, the said J. D. my said chaplain, freely to have, enjoy and maintain all and singular the privileges, benefits, liberties, preheminences and immunities whatsoever, given and granted unto the chaplains of the Barons and Peers of Great-Britain by the statutes and laws thereof, to all intents and purposes of law that may follow thereupon: and I have thought fit to testify to all and every of you, as I do by these presents. Given under my hand and seal, at arms, &c.

No. VI. *A Receipt for Queen Anne's Bounty.*

Received of J. Elves, Esq; treasurer to the Governors of the Bounty of Queen Anne, &c. the sum of
 being half a year's interest, due (on
 Lady-day last past) of two hundred pounds, appropriated by the said Governors, for the augmentation of
 the vicarage of in the county of and
 diocese of I say received by me,
 A. B. Vicar of aforesaid.

Note, The money is generally paid between Lady-day and Midsummer, and between Michaelmas and Christmas.

T I T H E S.

1. **W**HERE the value of small tithes does not exceed forty shillings annually, from any one person, if any one shall withhold, or any ways fail in the payment of such tithes, (compositions for the same, or in the offerings and oblations due to the rectors or vicars, according to right and custom) for the space of twenty days after the demand thereof, it shall be lawful for the person to whom the same is due, to make his complaint in writing to two justices of the peace, (neither of whom shall be the pastors of the church, or be any way interested in such tithes) and the said justices shall summon the party before them, hear and determine the case, and give such reasonable compensation for such tithes, &c. as they shall judge right, and shall allow such costs and charges, not exceeding 10 s. as on the merits of the cause shall appear just. 7 W. 3. c. 6. They may also give costs not exceeding 10 s. to the party prosecuted, if they shall find the complaint vexatious and false. But if the person complained of insists on custom, composition, or other title, and delivers the same in writing to the justices, and gives the party complaining sufficient security to pay costs at law, if the title is not allowed, the justices are not to give judgment. S. 12.

2. And if any person shall refuse to pay, after ten days notice, the justices shall levy the same by distress. S. 3.

3. Complaints of non-payment must be made within two years after such tithes, &c. become due. S. 5.

4. Person aggrieved may appeal to the quarter-sessions. S. 7.

5. Where justices refuse to give judgment, on account of reasonable defences set up, the minister may prosecute in any court of law; but where judgment is given, and omitted at the quarter-sessions, the minister shall have no other redress. Ibid.

6. If the complaining party shall sue in any court of law, and discontinue his action, or be non-suited, or a verdict

verdict pass against him, the defendant shall receive double costs. Ibid.

7. If any clergyman commence a suit for tithes, &c. in any of the courts of law, he shall have no benefit from this act. Ibid.

8. If any person, against whom judgment shall be obtained, shall remove out of the county, before the same shall be levied, a justice of such other county, receiving a certificate from those who made the judgment, shall, by his warrant, levy the same. Ibid. f. 10.

9. Any sum due from Quakers for tithes, &c. not exceeding 10 l. may be recovered the same way. 7 and 8 W. 3. c. 34. 1 G. ft. 2. c. 6.

An alphabetical List of what Tithes are due and not due.

GREAT TITHES.

Corn.—1. Is tithed by the tenth cock, heap or sheaf, which, if the owner do not set out, he may be sued in an action upon the statute. 2 and 3 Edw. 6. c. 13. And if the parishioner will not sow his land usually sown, the parson may bring his action against him.

2. When tithe-corn is set forth, the law gives the parson a reasonable time to carry it away; and if he suffer the same to lie too long on the land, to the prejudice of the owner, he may be liable to an action: but the parson may not set out the tithes himself, nor take them without leave. 1 Roll. Abr. 644. 1 Sid. 283. 2 Vent. 48. Ley. 70. See *Hay*. f. 4.

3. No tithe is due of the rakings of corn scattered, unless voluntarily done. 1 Roll. Abr. 645. pl. 11. Cro. Eliz. 278; 475. Freem. 640. pl. 14.

4. Headlands are not titheable, if only large enough for turning the plough. 2 Inst. 653.

5. No tithe is due of stubbles. 2 Inst. 261. 1 Roll. Abr. 640. pl. 14.

Hay.—1. The tenth cock is to be set out and paid, after made into hay, by the custom of most places, and the parishioners shall make the grass-cocks into hay, for the parson's tithe; but, if they are not obliged by custom to make the tithe into hay, they may leave it in

cocks, and the parson must, and may make it on the ground. A prescription to measure out and pay the tenth acre, or part of grass standing, in lieu of all tithe-hay, may be good; and if meadow-ground is so rich, that there are two crops of hay in one year, the parson, by special custom, may have tithe of both. 1 Roll. Abr. 643, 647, 950.

2. Tithe of hay is to be paid, though beasts of the plough or pail, or sheep, are to be foddered with such hay. Cro. Jac. 47. Webb. v. Warner. 1 Roll. Abr. 650. pl. 12. 12 Mod. 497.

3. No tithe is due of hay grown on the headlands of ploughed grounds, provided such headlands are not wider than is sufficient to turn the plough and horses on. 1 Roll. Abr. 646. pl. 19.

4. Grass or corn, &c. when sold standing, the buyer shall pay the tithe; if sold after cut, the seller must pay it. 1 Strange, 245. 1 Roll. Abr. 644, 645.

Tares cut green, and given to beasts of the plough, may, by special custom, be exempted from payment of tithes. 12 Mod. 498. Selby v. Bank. Pasch. 23 W. 3.

Wood.—1. Timber trees, above the age of twenty years, and their loppings and roots, pay no tithes; nor trees cut for plough-boot, cart-boot, &c. although they are not timber; but all trees not fit for timber, and not put to those uses, pay tithes. 1 Roll. Abr. 650. Cro. Eliz. 477, 499. Horn-beam and Asp are considered as timber. 2 Inst. 643. See f. 3, below.

2. Tithes are not in general due of beech, birch, willow, fallow, alder, maple, or white-thorn trees, or of any fruit-trees, of whatever age they are, because these are not timber. Plowd. 470. Cro. Eliz. 477. 1 Cro. Jac. 190. 1 Roll. Abr. 640. pl. 5, 6. Brownlow, 94. But if the wood of any of these trees is used in any place where timber is scarce, in building and repairing, no tithe is due of such wood in this part, if it be twenty years old. Hob. 219. Brownl. 94. See *Fruit*, below.

3. Where a tree has been lopped before the age of twenty years, all future loppings, though ever so old, are titheable. MS. Rep. Walton v. Tryon.

4. Coppice.

4. Coppice-wood, which has usually been felled, is titheable, though it be forty years old; 1 Lev. 189. Sid. 300.—and should some trees growing therein of twenty years standing be lopped, and these loppings be tied up in faggots, with the underwood; the whole is titheable; the owner should not have mixed it. MS. Rep. Walton v. Tryon. See f. 6, below.

5. Coppice-wood is set out while standing by the tenth acre, pole, or perch, or when cut down, by the tenth faggot or billet, as custom directs; and if he that sells the wood does not set out the tithe, he is liable to pay treble damages, by 2 and 3 Edw. 6. c. 13. But if the underwood is used for firing in a house of husbandry, or to burn brick to repair the house, or for fencing the lands in the same parish, it may be discharged from tithe. 2 Inst. 642, 643, 652. 2 Danv. Abr. 597.

6. If wood grounds have timber-trees growing on them, and consist chiefly of timber, they pay no tithe; but if the underwood is the greatest part, then it must pay for the whole. 13 Rep. 13.

7. If wood be cut for hop-poles, where tithe of hops is paid, no tithe shall be paid for it. Hughes Abr. 689. See *Barren Land* and *Hops* in small tithes.

SMALL TITHES.

Acorns, if gathered and sold, are titheable. 2 Inst. 643. Hetl. 27.

Aftermath, or after-pasture, pays no tithes, except by custom. 2 Inst. 652. 2 Danv. Abr. 589. See 7, below.

Agistment or feeding of Land.—1. An occupier of land is not liable to pay tithe for the pasture of horses, or other beasts, which are used in husbandry, in the parish where they are fed; because the tithe of corn, by their labour, is increased. 1 Roll. Abr. 646. pl. 2, 3, 6, 7. Cro. Eliz. 446. Ld. Raym. 130. But if they are used in husbandry, out of the parish where they are fed, tithe is due for them. 7 Mod. 114. Harrow's Case. Ld. Raym. 130.

2. No tithe is due for the pasture of a saddle-horse, which an occupier of land uses for himself or his ser-

vants. 1 Roll. Abr. 642. pl. 4. Cro. Jac. 430. Bulst. 171. Bunb. 3.

3. No tithe is due for the pasture of milk-cattle, because the milk is titheable. 1 Roll. Abr. 646. pl. 2. Ld. Raym. 130. Cro. Eliz. 446.

4. Milch-cattle, when dry for calving, shall pay no tithe for their pasture; but if they are afterwards sold, or milked in another parish, it is otherwise. Helt. 100. Ld. Raym. 130.

5. No tithe is due from an occupier of land, for the pasture of young cattle reared to be used in husbandry, or for the pail. Cro. Eliz. 476. Sheringh. v. Fleetwood. But if such young beasts are sold, before they come to that use, an agistment-tithe must be paid for them; Hetl. 86. Woolmerston's case—unless they are kept to be killed for the use of the family where they are fed. Jenk. 281. pl. 6. Cro. Eliz. 446, 476.

6. An occupier of land is liable to pay tithe for the pasture of all such cattle as he keeps for sale. Ibid.

7. No tithe is due for any cattle fed in grounds that have the same year paid tithe of hay. Bunb. 10, 79. Poph. 142. 2 Rol. Rep. 191. See *Aftermath*, above.

8. No agistment-tithe is due for any beasts fed on the head-lands of ploughed land, provided they are only wide enough to turn the plough and horses. 1 Roll. Abr. 642. pl. 19.

9. If land has paid the tithe of corn one year, and be left unsown the next, no agistment tithe is due for such land, because by thus lying fresh, the corn the next year is increased. 1 Roll. Abr. pl. 9. But if the land lies longer fallow than is usual in the course of husbandry, it is otherwise. Shep. Abr. 1008. Agistment-tithe for sheep does not seem quite settled. See *Sheep*. See *Cattle*, below.

Bark of trees is not titheable, if the trees were timber. 11 Rep. 49.

Barren Land pays no tithe. Where land is barren, and not manurable without some extraordinary expence, such land being converted into tillage, shall pay no tithe for the first seven years after the improvement. 2 and 3 Ed. 6. c. 13. But during the seven years it shall pay small tithe, as hath been customary.

If

If land is over-run with bushes, and rendered unprofitable by bad husbandry, it is not deemed barren land; for if it be grubbed, ploughed and sowed, it immediately pays tithes. 2 Inst. 656. Cro. Eliz. 475.

Bees are titheable for their honey and wax, by the tenth measure, and tenth pound. 1 Roll. Abr. 651. 3 Cro. 404, 559.

Broom shall pay tithe, but it may be discharged by custom, if burnt in the owner's house, or kept for husbandry. 2 Danv. Abr. 597.

Calves are titheable, and the tenth calf is due when weaned, not before; but if a person has not ten calves in one year, the parson is not entitled to tithes in kind for that year, unless by special custom, though he may take it the next year, throwing both years together; and it is a good custom to pay one calf in seven, where there hath been no more in one year, and where a man sells a calf to pay the tenth of the value, or, if killed, for the parson to have the right shoulder, &c. 1 Roll. Abr. 648. Ld. Raym. 277.

Cattle feeding in large commons, where the bounds of the parish are not certainly known, shall pay tithes to the parson of the parish where the owner lives; and if fed in two or more parishes, and they continue above a month in each parish, tithes shall be paid to the two &c. parsons proportionably. 1 Roll. Abr. 635, 646, 647. Hardw. 35.

Cheese pays by custom, where tithe is not paid for the milk; and it may be a good custom to pay the tenth cheese made in such a month for all tithe-milk in that year. 1 Roll. Abr. 651.

Chicken. See *Eggs, Fowls.*

Colts pay tithes as calves. 1 Roll. Abr. 642. See *Calves.*

Deer pay tithes only by custom. 2 Inst. 651.

Ducks.—See *Fowls.*

Eggs pay tithes when tithes are not paid for chickens. 1 Roll. Abr. 642. See *Fowls.*

Fens made manurable, or converted into pasture, are subject to tithes. 1 Roll. Rep. 354.

Fish, when in the sea or common rivers, are titheable only by custom, and the tithe is to be paid in money; but

but fish in ponds and rivers inclosed are titheable in kind. 2 Danv. Abr. 583, 584.

Flax.—Every acre of flax or hemp sown shall pay yearly 5 s. for tithe, and no more. 11 and 12 W. 3. c. 16.

Forest-Lands, in the hands of a subject, shall pay tithes. 1 Roll. Abr. 655. 3 Cro. 94.

Fowls, as hens, geese, ducks, are to pay tithes, either in eggs or young, according to custom, but not in both. Turkeys are exempt. 2 Danv. Abr. 583.

Fruit.—Apples, pears, plumbs, cherries, &c. pay tithes when gathered, and ought to be set out. 2 Inst. 621.

Fruit-Trees, cut down and sold, are not titheable, if they have paid tithe-fruit that year before cut. Ibid. 652.

Furzes, if sold, pay tithe, if not used for fuel in the house, or to make pens for sheep, &c. Wood's Inst. 166.

Gardens are titheable as lands, and therefore, all herbs, plants, and seeds sowed in them; but money by custom is generally paid for them. Ibid.

Geese.—See *Fowls*.

Honey.—See *Bees*.

Hops.—There are many ways of tithing these, by the hills, pole or pound; but they ought to be tithed before dried. 1 Roll. Abr. 643. Hops in fields are great tithes; in gardens, small. 1 Roll. Abr. 643. See note * at the end.

Houses are not properly titheable: but a modus may be paid in lieu of them. 11 Rep. 16. 2 Inst. 659.

Kids pay a tithe as calves; which see. Wood 167.

Lambs pay also as calves: but if they are yeaned in one parish, and do not tarry there thirty days, no tithe is due to the parson of that place. If there be a custom that the parishioner having six lambs or under, shall pay so much for every lamb; and if he have above that number, then to pay the seventh, it is good. 3 Cro. 403.

Lead pays only by custom. 2 Inst. 651.

Lime and *Lime-Kilns* are titheable. 1 Roll. Abr. 642.

Mast of Oak and Beech pays as acorns; which see.

Milk

Milk is titheable, when no tithe is paid for cheese, all the year round; except where custom over-rules; and it is payable by every tenth meal, not tenth quart or part of every meal; and is to be brought to the house of the parson, &c. by custom. Cro. Eliz. 609. 2 Danv. Abr. 596.

Mills.—Corn-mills, driven by wind or water, are paid in kind, every tenth toll-dish of corn to the parson of the parish wherein the mills are standing. But ancient corn-mills are tithe-free. 1 Roll. Abr. 656. 2 Inst. 621.

Mines pay no tithes but by custom. 2 Inst. 651.

Nurseries of Trees pay tithes, if the owner dig them up and sell them. 2 Danv. Abr. 585.

Offerings, &c. are in the nature of personal tithes. 2 Inst. 659, 661.

Orchards pay tithes, both for fruit, grafs or grain, if they produce any. 2 Inst. 652.

Parks are titheable by custom for the deer and the herbage; and when converted into tillage shall pay in kind; the tithe of parks may be in part certain and part casual; and two shillings a year and a shoulder of every third deer has been paid as tithe for a park. 1 Roll. Rep. 176. Hob. 37, 40.

Pease, if gathered for sale or to feed hogs, pay tithes, but not green pease for the family. 1 Roll. Abr. 647.

Personal tithes are now settled to be due only from the occupier of a corn-mill. 1 Eq. Caf. Abr. 366. Newt. v. Chamberlain, 2 Will. Rep. 463.

Pidgeons pay when sold, and by custom, if spent in the house, they may be titheable, though not of common right. 2 Danv. Abr. 583, 597.

Pigs are titheable as Calves; which see. Ibid.

Rabbits are titheable only by custom for those that are sold, not what are spent in the house. 2 Danv. Abr. 583.

Saffron pays a small tithe. 1 Cro. 467.

Salt is not titheable, but by custom. 1 Bunb. 10.

Sheep paying a tithe for lambs and wool, pay none for feeding. See *Agistment*, 9. If sheep are in the parish all the year, they pay tithe of their wool; but if removed from one parish to another, the parsons of each

each parish are to have tithes *pro rata*, where they remain thirty days in a parish; and if they are fed in one parish and shorn in another, the same tithing is to be observed. 1 Roll Abr. 642, 647. 3 Cro. 237. See *Wool*.

Wool pays, when clipped, one fleece in ten, or, in some places, one in seven. If there is under ten pounds of wool at the shearing, a reasonable consideration shall be paid; and if less than ten fleeces, they shall be divided into ten parts, or an allowance be otherwise made. All sheep killed, and sheep which die, pay tithe wool; and neck wool cut off for the benefit of the wool, but not if it is to preserve the sheep from vermin, &c. Also, the wool of lambs shorn at Midsummer, though tithe was paid for the lambs at Mark-tide, is titheable. 1 Roll Abr. 646, 647. 1 Inst. 652. See *Sheep*.

* Hops, saffron, &c. if a parish is generally sown with them, will become large tithes. The quantity of a thing determines it. 1 Roll. Abr. 643. 1 Cro. 578. Wood's Inst. 162.

** Where a vicarage is endowed out of the parsonage, the vicar shall not have tithes of the parson's glebe, or of land that was part thereof, at the time of the endowment, but now secured from it; yet it seems to be otherwise, if the glebe-lands are in the hands of the parson's lessee. Cro. Eliz. 479. Mallor Q. Imp. 4.

*** If a parson lets his glebe-lands to a layman, the tenant shall pay him tithe of that land, besides the rent. See Observations on Poor, No. 51, 52, &c.

CHURCH.

C H U R C H.

1. **N**O fairs or markets shall be kept in church-yards.
See note *d.* 13 Edw. 1. ft. 2. c. 6.

2. If any person shall, by words only, quarrel, chide or brawl in any church or church-yard, the ordinary, on proof of two witnesses, may suspend every layman being an offender, *ab ingressu ecclesiæ*; and every clergyman from the ministration of his office, as long as he shall think proper. 5 and 6 Ed. 6. c. 4. s. 1. See CLERGY, 44.

3. And if any shall smite, or lay any violent hands (*a*) on another, in any church or church-yard, he shall be deemed *ipso facto* (*b*) excommunicate (*c*). Ibid. s. 2.

4. If any shall maliciously strike another with any weapon, in any church or church-yard, or shall there draw any weapon, with intent to strike, and shall be convicted thereof by two witnesses, he shall have one of his ears cut off; and if he has no ears, shall be burned in the cheek with a hot iron having the letter F. to make him known as a fighter; and shall stand *ipso facto* excommunicate. Ibid. s. 3.

5. If any person shall disturb a preacher in his sermon, by word or deed, he shall be taken before a justice, who shall commit him to custody: and within six days, he and another justice shall examine the facts: if found guilty on the oath of two witnesses, he shall be

(*a*) But church-wardens, or perhaps private persons, who whip boys for playing in the church, or pull off the hats of those who obstinately refuse to take them off themselves, or gently lay their hands on those who disturb the performance of any part of divine service, and turn them out of the church, are not within the meaning of this statute. 1 Haw. 139.

(*b*) Nevertheless, in this and other like cases, there ought either to be a precedent conviction at law, which must be transmitted to the bishop, or else the excommunication must be declared in the spiritual court, upon a proper proof of the offence there; for it is implied in every penal law, that no one shall incur the penalty thereof, till he be found guilty upon a lawful trial. Ibid.

(*c*) And he shall not excuse himself, by shewing that the other assaulted him. Ibid.

committed

committed for three months, and to the next sessions; and if at the sessions he repents, he shall be discharged on finding sureties for his good behaviour for a year; if not, he shall be continued in goal till he does; saving the ecclesiastical jurisdiction, and he shall not be punished both ways. 1 Mar. Sefs. 2. c. 3. (d).

6. If any person shall wilfully and of purpose come into any church, chapel, or other congregation permitted by act of toleration, and disquiet and disturb the same, or misuse any preacher or teacher, he shall, on proof thereof, before one justice, by two witnesses, find two sureties in 50l. each, or be committed till the next sessions, and on conviction there of the said offence, shall forfeit 20l. to the king. 1 W. c. 18. f. 18.

7. It shall be lawful for all men, as well in churches, chapels, oratories, or other places, to use openly any psalms or prayer taken out of the Bible, at any due time, not letting or omitting thereby the service. 2 and 3 Ed. 6. c. 1. f. 7.

8. The chancel of the church shall be repaired by the parson (e), unless there be a custom to the contrary, and for these repairs he may cut down trees in a church-yard, but not otherwise. 35 Eliz. 1. 1 Geo. c. 13.

9. All persons having no lawful or reasonable excuse to be absent, shall resort to their parish-church or chapel (f), or upon reasonable let thereof, to some usual place where divine service shall be performed, according to the liturgy of the church of England, upon every Sunday and holiday, on pain of punishment by the censures of the church, or of forfeiting 1 s. for every offence to the poor, to be levied by the church-wardens, by distress. 1 Eliz. c. 2. f. 14, 24. Except Dissenters qualified by the act of toleration. 1 W. c. 18. For want of distress, commitment by a justice, till paid. 3 Jac. c. 4. f. 27, 28.

(d) And this statute, though made in Queen Mary's reign, extendeth to the divine service now established. Gibb. 372.

(e) In London, they are repaired by the parishioners.

(f) And he who is absent from his own parish-church shall be put to prove where he went to church. 1 Haw. 13.

10. Every

10. Every person above the age of sixteen years, who shall not repair to some church, chapel, or usual place of common prayer, being convicted thereof before the judges of assize or justices in sessions, shall forfeit 20 l. a month (g), one third to the king, one third to the poor, and one third to the suer. If not paid in three months after judgment, he shall be imprisoned till he pay, or conform himself to go to church. 23 Eliz. c. 1. s. 5, 8, 11. 29 Eliz. c. 6. s. 7. Prosecution within one year and a day.

11. And every person so forbearing by the space of twelve months, as by s. 10. aforesaid, shall, after certificate thereof in writing made in the court of King's Bench, by the ordinary of the diocese or a justice of the peace (prosecution within one year and a day) be bound with two sufficient sureties in the sum of 200 l. to his good behaviour, and so to continue till such time as the offender shall conform. 23 Eliz. c. 1. s. 5, 8, 11.

12. And every offender, in not repairing to divine service, having been once convicted (and not conforming) shall pay 20 l. a-month into the Exchequer, in the term of Easter or Michaelmas, which shall be next after such conviction, and also shall for every month after such conviction, so long as he shall not conform, pay as aforesaid, as much as shall then remain unpaid, after such rate of 20 l. a-month; and, in default of payment, the king may seize all the goods and two parts of the land of such offender. 29 Eliz. c. 6. s. 3, 4, 5, 6. 3 Jac. c. 4. s. 8.

13. Or the king may refuse the 20 l. a-month, though it be duly tendered, and seize two parts of the lands (h), at his option. 3 Jac. c. 4. s. 11.

14. But every person who shall usually on Sundays have in his house divine service, as established by law, and be thereat himself usually present, and shall four

(g) And this penalty of 20 l. a month dispenseth not with the forfeiture of 12 d. a Sunday, for both may well stand together; and the 12 d. is immediately forfeited upon the absence of each particular day. 1 Haw. 13.

(h) But copyhold lands are not within the statutes, in respect of the prejudice which would accrue to the lord by the loss of his services. 1 Haw. 14.

times a-year go to the parish church, or other common church, or other common chapel, shall not incur any penalty for not going to church. 23 Eliz. c. 1. f. 12.

15. And this also shall not extend to qualified Protestant Dissenters. 1 W. c. 18.

16. Every person who shall retain in his service, or shall relieve, keep or harbour in his house, any servant, sojourner or stranger, who shall not repair to church, but shall forbear for a month to go there, not having reasonable excuse, shall forfeit 10 l. for every month he shall continue in his house such person so forbearing; and the justices in sessions may determine the same. 3 Jac. c. 4. f. 32, 33, 34.

17. No recusant convict (i) shall practise law or physic, nor shall be judge or minister of any court, or bear any military office by land or sea, and shall forfeit for every offence 100 l. and shall be disabled to be executor, administrator or guardian. 3 Jac. c. 5. f. 8,

22. See CHURCH-WARDEN, 11.

18. A recusant, conforming himself, shall be discharged of all penalties which he might otherwise sustain, by reason of his recusancy. 1 Jac. c. 4. f. 2.

OBSERVATIONS ON CHURCH.

1. The property of the bells, books, and other ornaments, and the goods of the church, is in the parishioners, but the custody of them is in the church-wardens, who may maintain an action of trespass against those who take them away wrongfully. 1 Roll. Rep. 255.

2. If a man erect a pew in a church, or hang up a bell, &c. therein, they therefore become church-goods, though not expressly given, and cannot be removed. 2 Cro. 367.

3. The parson only is to give licence to bury in the church. Ibid.

4. For defacing a monument in a church, &c. the builder or heir may bring an action. Ibid.

(i) By this is meant, a person convicted of not going to church. Jacob's Dict.

5. It is felony within clergy, to dig up bodies and steal their grave-clothes. Co. Lit. 118.

6. The soil and freehold of the church is the parson's; the use of the body of the church, and the repairs of it, is common to the parishioners; and the disposing of the seats thereof the right of the ordinary. Gibf. 21.

7. The spiritual court may compel the parishioners to repair the body of the church, and may excommunicate every one of them till it is repaired; but those that are willing to contribute shall be absolved, till the greater part agree to a tax: Read, Ch. Serv.; but the spiritual court cannot assess them towards it. 1 Mod. 194.

8. If the church-wardens erect or add any thing new, either to the fabrick of the church, utensils or church-yard, they must have the consent of the parishioners; and if such additions are in the church, the bishop's licence is also necessary. But where necessary repairs are wanting, the greater part of the parish will bind the less; and if the major part will not consent, where repairs are necessary, the church-wardens may repair, without their consent, if, on notice given, they refuse to meet; or, when they are met, refuse to make a rate; but, if a church fall down, the parishioners are not bound to re-build it. Read, Ch. Serv. 1 Vent. 367.

9. But if a church be so much out of repair that it is necessary to pull it down, or so little, that it needs to be enlarged, the major part of the parishioners may make a rate for new building or enlarging, as there shall be occasion. Gibf. 223, 224.

10. An aisle in a church, which hath time out of mind belonged to a particular house, and been maintained and repaired by the owner of that house, is part of his frank tenement, and the ordinary cannot dispose of it or intermeddle in it. Gibf. 221.

11. A seat, or a priority in a seat in the body of the church, may be prescribed for as belonging to a house, if it hath been used and repaired time out of mind by the inhabitants of such house. Gibf. 221.

12. And no one can claim a seat as belonging to land. Wood, b. 1. c. 7.

13. And therefore, a seat may not be granted to a person and his heirs absolutely, for the seat doth not belong to the person, but to the inhabitants. Gibf. 221.

14. The parson impropriate, that is, he who hath the great tithes, if a layman, has a right to the chief seat in the church, but a parishioner may have it by prescription. Noy's Rep.

15. In the time of divine service, and of every part thereof, all due reverence is to be used. No man shall cover his head in the time of service, except he have some infirmity, in which case let him wear a night-cap or coif. All manner of persons then present shall reverently kneel, when the general confession, litany, and other prayers are read, and shall stand up at the saying of the belief, according to the rules prescribed in the book of common prayer. None, either man, woman, or child, shall be otherwise at such times busied in the church, than in quiet attendance to hear, mark and understand, that which is read, preached or ministred, saying in their due places, audibly with the minister, the confession, lord's prayer, and the creed, and making such other answers, as are appointed: neither shall they disturb the service or sermon, by walking or talking, or any other way, nor depart out of the church during the time of service or sermon, without some urgent or reasonable cause. Can. 18.

CHURCH-WARDENS.

As far as they respect the Poor: see Overseers.

1. **A**POTHECARIES, who have served seven years, shall be exempted from the office of church-warden. 6 W. c. 4.

2. Freemen of the corporation of surgeons in London are exempted from being church-wardens. 18 Geo. 2. c. 15.

3. Dissenters, teachers, or preachers, in holy orders, or pretended holy orders, being duly qualified, are also exempted from the office of church-warden. 1 W. fcl. 1. c. 18.

4. Other Dissenters, scrupling to take upon them the office, may execute the same by a deputy, to be approved of, as other church-wardens. Ibid.

5. All persons who have prosecuted a felon to conviction, are exempted from the office of church-warden, in the parish where the offence was committed; and the judge's certificate of having done this may be once assigned over, and the assignee shall have the same privileges. 10 & 11 W. c. 23. f. 2.

6. No private man, personally serving for himself in the militia, during the time of such service, shall be liable to serve as church-warden. 2 Geo. 3. c. 20. (a).

7. Every church-warden is an overseer of the poor, although every overseer of the poor is not a church-warden (b). 43 Eliz. c. 2. f. 1. See Poor throughout.

8. They shall levy the forfeiture of 12-d. a Sunday

(a) 1. A counsellor or attorney ought not to be chosen church-warden; and if he is, he may have a prohibition, by reason of his attendance at the courts of Westminster. 2 Roll. Abr. 272.

2. All peers of the realm are exempt likewise, and all members of parliament, by privilege; so likewise all clergymen, and persons living out of the parish, though they occupy lands within the parish, because they cannot observe offences. Gibl. 215.

(b) Justices have no jurisdiction over him, but as overseer of the poor. Bait. 186.

on the goods of persons not coming to church. † *Et*.
c. 2. (c).

9. They (or the constable) shall levy the penalty of 3 s. 4 d. for persons exercising their wordly calling on the Lord's day. 29 Car. 2. c. 7.

10. They (or the constable or overseers) shall levy the penalties for being present at unlawful conventicles. 22 G. 2 c. 1.

11. They shall, on pain of 20 s. present at the sessions once a-year, the monthly absence from church of all recusants. (See note (i) to 17. CHURCH.) And the names and ages of their children above nine years old; and the names of their servants. And if the party presented shall be indicted and convicted, the church-wardens shall have a reward of 40 s. to be levied on the recusant's goods, by warrant of the justices (d). 3 Jac. c. 4.

12. They

(c) 1. They shall see that the parishioners resort to church, and continue there orderly, during divine service, and shall present the defaulters. Can. 70.

2. They shall not suffer any idle persons to abide either in the church-yard or church-porch, during the time of divine-service or preaching, but shall cause them to come in or depart. Can. 13.

(d) 1. They shall keep excommunicated persons out of the church. Can. 85.

2. They shall take care to have in the church a large bible, book of common prayer, book of homilies, a font of stone, a decent communion-table with proper coverings; the ten commandments set up at the east end, and other chosen sentences upon the walls; a reading-desk and pulpit, and chest for alms, all at the charge of the parish. Can. 80, 81, 82, 83, 84.

3. They ought to keep the keys of the belfrey, and to take care that the bells be not rung without good cause, to be allowed by the minister and themselves. Can. 88.

4. They shall have a box wherein to keep the register, with three locks and keys, two keys to be kept by them, and one by the minister; and every Sunday they shall see that the minister enter therein all christenings, weddings and burials, that have been the week before; and at the bottom of every page they shall (with the minister) subscribe their names. And they shall, within a month after March 25, yearly, transmit to the bishop of the diocese, a copy thereof for the year before, subscribed as above. Can. 70.

5. They shall, at the charge of the parish, with the advice and direction of the minister, provide bread and wine against the communion. Can. 70.

6. They

12. They (or the constable) shall levy the penalty of 3 s. 4 d. for using unlawful pastimes on the Lord's day. 1 Car. c. 1. (e).

13. They (or the overseer) shall levy the penalty of 5 l. for an incumbent not reading the common-prayer once a-month. 13 & 14 Car. 2. c. 4.

14. They shall collect money on charity-briefs, on pain of 20 l. 4 Ann. c. 14.

15. They shall, on certificate from the minister, apply to the magistrates for conviction of offenders in not burying in woollen (f). 30 Car. 2. c. 3.

16. They shall levy the penalties for eating flesh on fish days. 5 Eliz. c. 5.

17. They shall receive the penalties for labourers, apprentices, or journeymen, gaming in public houses. 30 Geo. 2. c. 24.

18. They shall receive the penalties for tipling and drunkenness. 4 Geo. c. 5. 21 Geo. c. 7.

19. They (or the constable) shall levy the penalty for suffering tipling. 1 Jac. c. 9.

6. They are to see that the church-ways be well kept and repaired; and the right to a church-way may be claimed and maintained by a libel in the spiritual court. 2 Roll. Abr. 187.

7. They may have the care of a benefice during its vacancy; for this purpose, on the death of the rector or vicar, they are to take out a sequestration from the spiritual court; this done, they are to manage all the profits and expences of the benefice for him that shall next succeed, plough and sow his glebe, take in the crop, collect tithes, thrash out and sell corn, repair houses and fences, and the like; and they shall take care, that during the vacancy the church shall be duly served by a curate approved by the bishop, whom they are to pay out of the profits of the benefice; and if the successor thinks himself aggrieved by them, he may appeal to the ecclesiastical judge. *Par. L. 99. Comp. Par. Off. 90.

8. They shall suffer none to preach in their churches, without producing his licence. Can. 50. 2 Bul. 49.

(e) They shall suffer no plays, feasts, banquets, suppers, church-ales, drinkings, temporal courts or leets, lay-juries, musters, or any profane usage, to be kept in the church or church-yard. Can. 38.

(f) Persons who murder themselves, or die excommunicated, are denied Christian burial, and therefore the church-wardens are not to suffer them to be buried in the church or church-yards, without special licence from the bishop. Degge 183.

20. They

20. They shall receive the penalties for hawking spirituous liquors. 9 Geo. 2. c. 23.

21. They (or the overseers) shall levy the penalty for selling corn by a wrong measure. 22 Car. 2. c. 8.

22. They (or the overseers) shall levy the penalties relating to butter and cheese. 13 & 14 Car. 2. c. 26.

23. They and the overseers shall distribute among the poor, foreign cattle imported, forfeited, and killed. 32 Car. 2. c. 2.

24. They (or the overseers) shall levy the penalties relating to weights and measures. 16 Car. c. 19. 22 Car. 2. c. 8.

25. They shall carry hawkers and pedlars trading without a licence before a justice of the peace. 9 & 10 W. c. 27.

26. They shall provide chests wherein to lock up the arms, clothes, &c. of the militia. 2 Geo. 3. c. 20.

27. They, together with the minister, are to sign certificates for the out-pensioners of Greenwich Hospital, residing within their parish, with respect to the identity of their persons, in order to receiving of their pensions. 3 Geo. 3. c. 16.

28. They (or the overseers) shall pay to the high constables the general county-rate, out of their money collected for the poor. 12 Geo. 2. c. 19.

29. They shall receive the penalties for tracing hares in the snow, (and other game penalties). 1 Jac. c. 27.

30. They shall join with the constable and surveyor of the high-ways in chusing and returning new surveyors. 7 Geo. 3. c. 42.

31. Church-wardens doing injury to the parish may be removed on proof, by the authority of the ordinary. 8 Eliz. c. 4. s. 6. 13 Co. 70.

32. In all actions against church-wardens, &c. for the misapplication of public money, the evidence of parishioners that do not receive alms shall be admitted. 3 W. c. 11. s. 12.

33. When verdicts in actions against church-wardens are given for them, they shall have double costs. 7 Jac. c. 5. 21 Jac. c. 12.

OBSERVATIONS ON CHURCH-WARDENS.

1. The following is the church-warden's oath :—
 " You shall swear truly and faithfully to execute the office of a church-warden within your parish, and according to the best of your skill and knowledge, *present* such things and persons as to your knowledge are presentable, by the laws ecclesiastical of this realm. So help you God, and the contents of this book." Gibf. 243.
2. Church-wardens refusing to take their office and oaths, may be excommunicated for the refusal, and no prohibition will lie. Ibid.
3. Church-wardens shall be chosen yearly, in Easter week, by the joint consent of the minister and parishioners, if it may be, but if they cannot agree, the minister shall chuse one and the parishioners another. Canons of 1603, 89.
4. But where there is a custom for the parishioners to chuse both, that custom shall continue. Gibf. Codex. 242.
5. Church-wardens being sworn as above, are so far incorporated by law, as to sue for the goods of the church, and also to purchase goods for the use of the parish, such as organs, bells, books, Bibles, chalice, surplice, &c. but they are not such a corporation as to purchase lands, or take by grant, except in London by custom. Gibf. 241. They cannot dispose of the seats, fixed to the freehold of the church. 1 Salk. 167. But such only as are erected by parishioners, and by them kept in repair; if these are destroyed the church-wardens may bring an action; so may they for defacing a monument: but they cannot remove any, nor take down any arms erected in the church, nor remove a gravestone. Golb. 279. 1 Roll Abr. 625.
6. Church-wardens shall continue in office till the new church-wardens be sworn. Can. 118.
7. Church-wardens are by their oath, (see 1. above) to present or certify to the bishop, or his officer, all things presentable by the ecclesiastical laws which relate to the church, minister, and parishioners. Burn. Churchw.

8. The articles delivered to them for their direction, are for the most part founded on the book of canons made in the year 1603, and the rubricks of the common prayer. Ibid.

9. They may present as often as they please, but shall not be obliged above once a year, where it hath been so used, and not above twice any where, except it be at the bishop's visitation. Can. 116, 117. If they present an innocent person, so that he suffers expence, or injure his good name, an action will lie against them. Cro. Car. 285. 1 Vent. 96.

10. For the presentments of any church or chapel, for one year, the register shall have only 4d. Can. 116.

11. In large parishes, sidersmen or questmen are chosen yearly, in Easter week, by the minister and parishioners, if they can agree; if not, by the bishop, to assist the church-wardens in their enquiries, and presentment of offenders. Can. 90. Who also are sworn to assist the church-wardens in the execution of their office. Gibb. 242.

12. But church-wardens are not answerable for indiscretions, but for deceit only, if they lay out more money than is needful. Wood, b. 1. c. 7.

13. If the church-wardens waste the goods of the church, the new church-wardens may call them to account before the bishop, or bring their action at common-law. Read, Ch. Serv.

Church-Wardens Rates.

14. The church-wardens rates must be made with the consent of the major part of the parishioners, for which purpose, public notice of a vestry ought to be given the Sunday before, either in the church, after divine service is ended, or else at the church-door, as the parishioners come out, both of the calling of the said meeting, and also of the time and place of its assembling. And it will be fairest then also to declare the business for which the said meeting is called. And it is usual, that for half an hour before it begins, one of the church-bells be tolled to give the parishioners notice when they are met. 5 Co. 67. Par. L. 54.

15. At the common law, every parishioner who paid to the church-rates, and no other, had a right to vote. Par. L. 56. And those that pay no church-rates shall have no vote in affairs relating to it, except it be the rector or vicar. Wood, b. 1. c. 7.

16. All persons who have a vote in the vestry have an equal right; and neither the minister nor church-wardens, without a special custom, can adjourn the vestry; but this can be done by a majority only of the whole assembly. Str. 1047.

17. When the church-wardens and parishioners are there met, they are to consider what sum of money it will be necessary to raise for such repairs as shall then be needful; and after they have agreed what sum is fit, they are to make an equal levy. Degge, 171.

18. And the major part of them that appear shall bind the parish; or, if none appear, the church-wardens alone may make the rate, because they, and not the parishioners, are to be cited and punished in defect of repairs. Gibf. 220.

19. It is proper that every parish-act at vestries should be entered in a book of accounts, and every man's hand consenting to it be set thereto, for then it will be a certain rule for the church-wardens to go by. Par. L. 55.

20. By custom there may be select vestries, of a certain number of persons, elected yearly, to make rates, and manage the concerns of the parish for that year. Read, Ch. Serv. Gibf. 246. Str. 428.

21. The practice now (though different opinions are given on this head) is, that persons living out of a parish, if they occupy lands in it, are liable to pay the church-wardens rate, both for the repairs of the church and its ornaments. Shaw's Parish Law, p. 92.

22. A taxation by the pound rent is the most equitable way, and not according to the quantity of the land. Wood, b. 1. c. 7.

23. Where lands are in farm, not the lessor, but the tenant shall be rated and pay. Gibf. 221.

24. An impropriator, though bound to repair the chancel, is also bound to contribute to the repairs of the church, if he hath lands in the parish, which are
not

not a parcel of, or belong to the parsonage. *Gibf.* 221, 223.

25. If any person finds himself aggrieved at the inequality of the assessment, his appeal must be to the ecclesiastical judge. *Degge*, 172.

26. And in such case, if he will be relieved, he must shew that he is illegally or unequally taxed in respect to the quantity of his land, as being rated for more than he has, or that the land which he hath is over-rated, or that the rate was needless, or that some lands in the parish are omitted in the rate. *Wood*, b. 1. c. 7.

27. If any refuse to pay the rates (Quaker or otherwise) being demanded by the church-wardens, they are to be sued for in the ecclesiastical court; or he may be prosecuted before the justices, in the same manner as for his tithes. See *TITHES*, No. 1. *Gibf.* 219. *Degge*, 171.

28. Church-wardens at the end of the year, or within a month after at most, shall, before the the minister and parishioners, at a vestry, give an account of the money they have received, and how they have disposed of it; and, on quitting their office, shall deliver up to the parishioners all money and other things in their hands belonging to the church or parish, that they may give them over to the next church-wardens. *Can.* 89. If he does not give in this account he may be committed by two justices. *East.* 1 *Geo.* 1. *Rex v. Gibson.*

29. When church-wardens have given in their account, &c. (as in 28. above) the spiritual court cannot make them account upon oath. *Bunb.* 289.

POOR.

P O O R.

1. **T**HE church-wardens of every parish (a), and four, three, or two substantial householders (b) there, as shall be thought meet, having respect to the greatness of the parish, to be nominated yearly in Easter week (c), or within one month after Easter, by two neighbouring justices, shall be called *Overseers* of the Poor of the same parish. 43 Eliz. c. 2. s. 1.
2. In every place where there are no church-wardens, the overseers may act alone, in all respects, as church-wardens and overseers may do in other places. 17 Geo. 2. c. 38. s. 15.
3. And if any overseer shall die or remove, or become insolvent, before the expiration of his office, two justices may appoint another in his stead. Ibid. s. 3.
4. No person serving for himself as a private man in the militia, shall, during the time of such service, be liable to serve as overseer of the poor. 2 Geo. 3. c. 20.
5. Freemen of the corporation of surgeons in London are exempted from the office of overseer of the poor. 18 Geo. 2. c. 15.
6. The distress for the poor-rate shall not be deemed unlawful for any defect or want of form in the warrant for the appointment of overseers. 17 Geo. 2. c. 38. s. 8.
7. If any person shall find himself aggrieved by any

(a) Extra-parochial places are deemed to be implied by the term parish, provided it be a village or township. Str. 512.

(b) 1. No woman can serve. E. 10 An. Vin. Tit. Poor.

2. Justices at the sessions may over-rule an order of the two justices, appointing overseers, if they think the persons improper. Burrow. Mansf. 245.

3. A person residing part of the year only in a parish, is an improper person to be appointed overseer. Carth. 161.

(c) 1. An appointment on a Sunday is a good one. Foley, 4.

2. An appointment is good, though not made within one month after Easter. Stran. 1123.

3. A person refusing to take the office upon him, when appointed, may be indicted. Sess. C. V. 2. 187. Str. 1146.

act done by the justices, he may appeal to the general quarter-sessions. 43 Eliz. c. 2. s. 6.

8. The overseers shall, within fourteen days of their appointment, receive the books of assessment and of accounts from their predecessors, and what money and materials shall be in their hands, and reimburse them their arrears. 17 Geo. 2. c. 38. s. 1, 11, 13.

9. And they shall take order from time to time, with the consent of two neighbouring justices, for setting to work the children of all such whose parents shall not, by the said church-wardens or overseers, or the greater part of them, be thought able to keep and maintain them; and also for setting to work such persons, married or unmarried, having no means to maintain them, and using no ordinary and daily trade. Which said church-wardens and overseers, or such of them as shall not be let by sickness or other just excuse, to be allowed by two such justices, shall meet at least once a month, in the church (d), on Sunday in the afternoon, after divine service, there to consider of proper measures for the purpose, on pain that every one of them absenting themselves, without lawful cause, from such monthly meeting, or being negligent in their office (e), shall forfeit 20 s. to the poor, to be levied by distress, (by any of the other church-wardens or overseers; 6 Vin. Abr. 415.) or, in default thereof, any two justices may commit (f) the offender to the common jail, till the said forfeiture be paid. Persons aggrieved by any act of the said overseers may appeal to the general quarter-sessions. 43 Eliz. c. 2. s. 1, 2, 6, 11. See No. 63. below.

(d) The penalty for not meeting in the church shall not be inflicted in extra-parochial places, because they have no church to meet in. 8 Mod. E. 7 G.

(e) If an overseer does not provide for the poor, he is indictable; and if he relieves the poor, when there is no necessity, it is a misdemeanour. MS. Cases. Pasch. 8. Ann. B. R. Tawny's Case.

(f) The offender cannot be committed, till after a warrant issued to distrain. 6. Vin. Abr. 416.

CERTIFICATES.

CERTIFICATES.

10. Within forty days (*g*) after any poor person within England and Wales (*h*) shall come to settle in any tenement under 10 l. a-year, two justices may remove them to the place where they were last legally settled, unless they give sufficient security for discharge of the parish, to be allowed by the said justices. 13 & 14 C. 2. c. 12. s. 1.

11. But if persons leaving their own parishes for work, and not able to give the security required in No. 10. shall bring and deliver to the church-wardens or overseers of the place where they come to reside, a certificate (*i*) under the hands and seals of the church-wardens and overseers of the parish they belong to, attested by two or more credible witnesses, and signed by two justices (*k*), thereby acknowledging the person mentioned in the said certificate to be an inhabitant legally settled in that parish, it shall oblige the said parish from whence they come to receive and provide for the person mentioned in the said certificate, together with his family, as inhabitants of that parish, whenever they shall become chargeable to the parish where they reside: and then, and not before, it shall be lawful for such person and his children (*l*), though born in that parish, not having otherwise acquired a legal settlement there (*m*), to be removed and conveyed to the parish

(*g*) A person not removeable, or not removed, after having given the legal notices, for the space of forty days, gains a settlement. Sess. C. V. 1, 97.

(*b*) Irishmen, Scotsmen, &c. cannot be removed till they become vagrants. Burn, POOR.

(*i*) 1. A parish cannot be compelled to grant a certificate. Sess. C. V. 2, 128.

2. A misdirection of the certificate will not destroy it. Str. 1863. Burrow's Settle. Cases, 171.

(*k*) Unless signed by two justices it is not binding. Ibid. 581.

(*l*) A certificate extends to children born after the granting it. Ibid. 182, 259, 314.

(*m*) 1. A certificate is not binding, provided the party gains a settlement any where after the granting it. 3 Salk. 253.

rish from whence such certificate was brought. 8 & 9 W. c. 30. s. 1. See No. 14. below.

12. No person who shall come into any parish by such certificate, shall be adjudged by any act whatsoever to have procured a legal settlement in such parish, unless he shall really and *bona fide* take a lease of a tenement of the yearly value of 10 l. (n) or shall execute some annual office in such parish, being legally placed in such office (o). 8 & 9 W. c. 11. See No. 31. below.

13. No apprentice or hired servant of any such person residing by virtue of such certificate, and not having

2. A certificate provides for the security of that parish only into which the certificate persons came to reside by virtue of such certificate, but doth not exclude a certificate person from gaining a settlement in another parish, in the same manner as any other person may do. Burrow's Settl. Cases, 186.

3. A parish cannot be compelled to grant a certificate. Sess. C. V. 2, 128.

4. A misdirection of the certificate will not destroy it. Str. 1163. Burrow's Settl. Cases, 171.

(n) 1. Less than forty days residence on a tenement of 10 l. a-year will not gain a settlement. Burr. Settlm. ca. 53.

2. Renting two tenements of 5 l. a-year each, is sufficient for a settlement, but not renting land of 10 l. without a house on it. A water-mill is a tenement within the act. 2 Salk. 536.

3. A joint taking of a tenement between two persons is not sufficient to gain a settlement for either, unless the value be 20 l. a-year. Burr. Settlm. ca. 311.

4. Taking land in a parish, of whatever value it be, without coming to reside there, will not gain a settlement. Burn, Poor, Settl.

5. Renting 10 l. a-year in two parishes gains a settlement in that where the house stands. Str. 57. Sess C. V. 1. 115. Foley, 181.

6. Two distinct tenements, taken at different times, (where neither of them alone amounted to 10 l. a-year) makes a settlement in the parish where the tenant lives. Burr. Settlm. ca. 44.

7. It is not necessary to gaining a settlement, that the tenant should take the tenement for a whole year. Burr. Mansf. 760.

8. The rent paid is immaterial; it is the real value of the tenement, if let, that determines the matter; if a man pays but 4 l. a-year, and its value is 10 l. it is sufficient; if he pays 20 l. and its value is under 10 l. it is insufficient. Burr. Settl. ca. 574, 140.

9. A verbal agreement for rent is not sufficient, it must be a lease by deed. Str. 502.

(o) 1. A certificate is discharged by the certificate-man's acquiring an estate of his own.

2. When a certificate person or family is removed to their own parish, the certificate becomes of no effect. Burn's Poor, Certif.

3. A cer-

ing afterwards gained a legal settlement there, shall be deemed to have any settlement in such parish, but shall have their settlements in such places as if they had not been apprentices or servants as aforesaid. 12 Ann, st. 1. c. 18. f. 2.

14. One of the witnesses at least who attest a certificate shall make oath, before the justices who are to sign the same, that he saw the church-wardens and overseers sign and seal the same, and this oath shall be certified by the justices. 3 Geo. 2. c. 29. f. 8.

SETTLEMENTS.

15. Where a woman wandering and begging shall be delivered of a child in any place to which she doth not belong, the settlement of such woman shall be deemed the settlement of such child (p). 17 Geo. 2. c. 5. f. 25.

16. A

3. A certificate is discharged when the person mentioned in it goes voluntarily back, and resides for some time in his own parish. Burrow's Settle. Cases, 408, 402, 527.

(p) 1. A bastard child is prima facie settled where born. Burn, Poor. Settle. Except born in lying-in-hospitals, when they shall follow the mother's settlement. 13 Geo. 3. c. 82.

2. A bastard gains no settlement by birth, if its mother comes into a place by privy and collusion of the officers where she belongs, and is there delivered. Cases of S. 66. The fraud or trick will make the parish chargeable where the mother is settled.

3. A bastard born after order of removal, belongs to the mother's parish. Ibid.

4. A child born in the house of correction shall be sent to the place of its mother's settlement. 2 Bulstr. 358.

5. Bastards of a certificate person shall have their settlement where born. Str. 186.

6. But bastards, notwithstanding they are settled where born, if the mother has a different settlement, and be removed, the child must go with her, and be maintained by her parish, till it be seven years old. Sess. C. V. 2, 90. Unless the mother voluntarily desert the child. Burn, Poor, Settl.

7. With respect to a legitimate child, where the father or mother's parish is not known, the child may be sent to the place of its birth; Black. 246. and then only till either of such parishes is known. Foley, 269.

8. Where children have gained no settlement, but continue part of their father's family, they shall follow their father's settlement; Sess. C. V. 2. 250. Andr. 348; unless such children shall, after seven years of age, desert their father; in which case, if the father

16. A child may gain a settlement distinct from its parents at the age of seven years and forty days, for at seven years old a vagrant's child may be put out apprentice, and forty days after such apprenticeship he becomes a parishioner of the parish where he is an apprentice. 5 Eliz. c. 5. s. 12. 17 Geo. 2.

17. On complaint by the churchwardens or overseers of the poor, within forty days after any person shall come to settle in any parish, in any tenement under 10 l. a-year; two justices may remove him to the place where he was last legally settled. The said forty days shall be reckoned not from the time of his coming to inhabit, but from the time of the notice he delivers in writing being published in the church. 13 & 14 C. 2. c. 12. 1 Jac. 2. c. 17. 3 W. c. 11. See No. 24, 25, 26. below.

18. If any person shall be bound an apprentice by indenture (q), and inhabit in any place, such binding and inhabitation

settled at A, removes from A to B, and gains a settlement at B, and any of his children refuse to follow him, but continue at A, A is the place of such children's settlement. Str. 831.

9. A son ceases to be part of his father's family, and of course is not settled with him, if he marries, and lives separate from him in another parish. Burr. Settl. Cas. 270.

10. If the father dies before the child is born, yet the child shall be settled where the father was settled before his death. M. 5. An. Q. and Clifton. Viner. Settl.

11. Where the father dies, and leaves children, and the mother, while a widow, gains a fresh settlement, the children shall be settled with the mother. Foley, 254. Str. 746.

12. Where a widow with children marries a man of another parish, her children's settlement shall be that of her own parish. Carth. 449. 2 Salk. 482.

13. Where a child is first known to be, that parish must provide for it till they find another. Holt, Ch. J. Comb. 364, 372.

(q) 1. But the binding must be in writing, and stamped, and the indentures valid by law, or the settlement is not good. Burrow, Settl. Cas. 272, 198. Str. 903. 3 Mod. 368.

2. An infant may make an indenture and bind himself for his own benefit. Foley, 254. Andr. 373.

3. In the case of binding for less or longer time than seven years, no parish can take advantage of such illegal binding, so as to destroy a settlement gained by indentures. Burn, Settl. Ca. 91, 248.

4. An apprentice's settlement follows that of his master's, if he resides forty days in such fresh parish. 2 Salk. 533.

5. Rind:

inhabitation shall gain a settlement, though no notice in writing be delivered and published. 3 W. c. 11. f. 8.

19. No apprentice bound to a certificate man, not having afterwards gained a settlement where he lives, shall, by virtue of his indentures, gain a settlement where he is bound, but such apprentice shall be settled where he would have been, had he not been bound. 12 An. ft. 1. c. 18. f. 2. See No. 12, 13, above.

20. No person who shall have been bound an apprentice by any deed, not indented, being first legally stamped, shall be liable to be removed from the place where he was bound and resident forty days on account only of such writing or deed not being indented. 31 Geo. 2. c. 11.

21. If any unmarried person (r), not having child or children, shall be lawfully hired (s) into any parish for one

5. Binding and serving will not make a settlement; it must be by residing; of course it cannot, but where the party lodges. *Ld. Raym.* 1371. *Str.* 594.

6. Forty days residence at one time in an apprenticeship is not necessary to claim a settlement, provided the apprentice resides forty days in the whole. *Str.* 579.

7. An apprentice to one man, assigned over to, or living afterwards with another, if he resides with that other, gains a settlement with him. *Seff. C. V.* 1, 215. 1 *Salk.* 68. *Str.* 1001.

8. Where a lad is proposed to be an apprentice, and the indentures not executed, though he lives a year with such master, he gains no settlement there. 2 *Barnardist.* 39. *Burr. Settl. Ca.* 540.

(r) 1. Though a person be married and has a daughter, if that daughter be married, the hiring for a year claims a settlement, as he comes within the meaning of the act, which would not burthen a parish with children. *Cases of S. 7.* *Foley*, 131.

2. Though a man hired for a year marries six months after, yet if he serves his time he gains a settlement by such service. 2 *Salk.* 527.

(s) 1. Serving a year under different hirings is not sufficient to gain a settlement, the servant must be hired for one year at once. 2 *Salk.* 535.

2. A general hiring, though no time of service be agreed on, is deemed hiring for a year. *Burr. Settl. Ca.* 299.

3. Hiring for eleven months and the servant then quitting his master for a week or two, and then hiring and living with him eleven months longer, defeats the act, and gains no settlement. So hiring

one year, such service shall be adjudged a good settlement therein, 3. W. c. 11. provided such person shall continue in the same service for one whole year (t). 8 & 9 W. c. 30.

22. But

hiring a farming servant for a year, with liberty to be absent the harvest months, and to let himself out, is construed hiring for eleven months only, and gains no settlement; the hiring must be for a whole year, if any particular time be mentioned. Fol. 137. Str. 83. 10 Mod. 392. Burr. Mansf. 395. Str. 143.

4. A servant hiring with his father is sufficient to gain a settlement. Fol. 142.

5. If hired for a year, and the servant serves that year, whether he lodges with the master or not, it gains a settlement. Str. 1139. See Note (t) 3.

6. If a servant is hired a month on liking, at a certain sum per year, and continues in that service a year, with an agreement to quit at a month's wages, or a month's warning, it gains a settlement; in short, a conditional hiring is hiring for a year, if the conditions be performed. Burr. Settl. Ca. 19, 289.

(t) Hiring for half a year, and then hiring for a whole year, if the servant serves the first half year and half the second year, it gains a settlement, as for a year's service. L. Raym. 426.

2. Hiring for a year to one master, and, after living some time with him, serving a second with his consent, where the whole service was a year, is deemed the same service. Str. 90. Cases of S. 109.

3. If a servant be hired for a year to work for his master, in a parish where the master does not reside, the servant gains a settlement in that parish where he resides, provided he serves his year. Str. 528. Foley, 200. See Note (t) 5.

4. Wherever the master removes, if the servant lives forty days; where he resided the last forty days, there is his settlement, and it is not necessary that he should reside forty days together; the last forty days in any part of the year determines the settlement. Burn, Poor, Settl. Cases of Settle. 219. Burr. Settl. Ca. 243.

5. A servant hired for a year, though liable to become chargeable to a parish, cannot be removed, as in the case of a maid-servant big with a bastard child; but the master may complain to a justice, and get her discharged, as not being able to do his work, and then she may be removed:—So where a servant by hiring has gained a settlement, though the master may be removed the servant cannot; but the master may, by applying to a justice, get his servant compelled to go with him. Burn, Poor, Settl.

6. Where a servant is absent at times during his year, with the master's consent; or without his consent, if he takes him back again, it is held service for a year; nay, if a servant should absent himself for two or three days before the expiration of his year, in order to look for a new service, and without the consent of his master,

22. But no servant hired to a person living in a place under a certificate, where the master has not gained a settlement, shall give such servant a settlement there. Ibid. f. 2. See No. 12. above.

23. Servants in the Foundling and Magdalen Hospitals, London, shall not by such service gain any settlement in the parishes where such hospitals are situate. 13 Geo. 2. c. 29. 9 Geo. 3. c. 31.

24. The forty days continuance of any person in a parish in order to gain a settlement, shall be accounted from the time of his delivering notice in writing (u) of the house of his abode and the number of his family, if he have any, to one of the church-wardens or overseers of the parish to which he shall remove. 1 Jac. 2. c. 17. f. 3. See No. 17. above, and No. 25. below.

25. Which said notice in writing the said church-warden or overseer shall read, or cause to be read, publickly, immediately after divine service in the church or chapel, on the next Lord's day, and the same shall be registered in the book kept for the poor's account. 3 W. c. 11. f. 3.

26. But no soldier, seaman, shipwright, or other artificer or workman in his Majesty's service, shall have any settlement in any parish, or other place, by delivering and publication of notice, unless the same be after dismissal out of the service. Ibid. f. 4.

27. And if any church-warden or overseer shall refuse or neglect to read, or cause to be read, such notice in writing as in No. 25. he shall (on proof thereof by

master, it is a good year's service. Burr. Settl. Cas. 322. Cases of S. 129. Str. 423.

7. A person under a yearly hiring, served within five days of his time, then left his service with his master's consent, on the parish officers giving him two guineas to prevent a settlement; this deemed no settlement. Ness. Just. Tit. Poor. Burr. Settl. ca. 69.

8. Where a servant quits before the end of the year with his master's consent, taking the whole years wages, and finding a man to supply his place, it is deemed a year's service, and gains a settlement. Str. 1022. Burr. Settl. ca. 68.

(u) All persons not removeable may become equally settled without giving notice; as with it, for the notice is only intended where the person is removeable; for if he is not removeable, the notice is to no purpose. Burn, Poor, Settl.

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the oath of two witnesses before one justice of the peace) forfeit for every offence 40 s. to the party grieved, by distress, and, for want of sufficient distress, shall be committed to the common gaol for one month. And if he shall refuse or neglect to register, or cause to be registered, such notice, he shall, on like conviction, forfeit 40 s. to the poor, to be levied by distress, and for want of sufficient distress he shall be committed for one month. Ibid. f. 5.

28. If any person, who shall come to inhabit in any place, shall be charged with and pay his share towards the public taxes or levies of the said place (x), he shall be adjudged to have a legal settlement in the same, though no such notice in writing be delivered and published. 9 & 10 W. c. 11. See No. 29, 30, 31. below.

29. But persons residing under a certificate shall gain no settlement by being rated to and paying taxes. Ibid.

30. No person who shall be assessed to the scavenger's rate, or to the repairs of the highways, and shall only pay the same, shall be deemed to be settled thereby. 9 Geo. c. 7. f. 6.

31. Persons assessed to and paying the duties on houses and windows, shall not thereby gain a settlement. 21 Geo. 2. c. 10. See SHOPS, 11.

32. If any person who shall come to inhabit in any parish shall for himself, and on his own account (y), execute any public annual (z) office or charge in the parish during one whole year, he shall have a settlement in

(x) 1. If the landlord be rated and the tenant pay, it does not gain the tenant a settlement, he must be both rated and pay. Foley, 128. Sess. C. V. 2. 125.

2. Paying to the county-bridge gains no settlement, as all the county is liable, and not as a parishioner. Cases of S. 1.

(y) Serving therefore constable, as deputy, gains no settlement. Viner, Settl. G. 2.

(z) 1. The office of parish-clerk will gain a settlement. Sess. C. V. 2, 182. And the licence of the ordinary is not necessary for his legal investment. Str. 942.

2. A man must be legally invested with an office to gain a settlement. Str. 1225.

3. A schoolmaster is not legally placed in the office, till he has subscribed before the bishop the declaration of conformity to the liturgy of the church of England, and is licensed by him. Burn, Poor, Settl.

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the same, though no such notice in writing be delivered and published. 3 W. c. 11. f. 6.

33. No person (*aa*) shall be deemed to acquire any settlement in any place, by virtue of any purchase (*bb*) of any estate or interest in such place, whereof the consideration for such purchase doth not amount to the sum of 30*l.* *bona fide* (*cc*) paid, for any longer or further time than such person shall inhabit on such estate, and shall then be liable to be removed (*dd*) to such place where he was last legally settled before the said purchase and inhabitancy therein. 9 Geo. c. 7.

34. If any person ordered to be removed (see No. 10, above) shall refuse to go, or shall not remain in the parish where he ought to be settled, but shall return of

(*aa*) And as this shall not settle the person purchasing for longer time than he continues in the purchased estate, so it shall not settle any of his children by any derivatory settlement from him. Burr. Settl. ca. 516.

(*bb*) 1. But if the purchase-money be under 30*l.* if the occupier serves any parish office, he gains a settlement. Ibid. 436.

2. In cases of descent a settlement is gained though the original purchase-money be under 30*l.* value. Ibid. 566. Provided the estate-holder lives forty days upon it. Ibid. 307.

(*cc*) It must be money paid for, not afterwards laid out on, the estate, to gain a settlement. Ibid. 553.

(*dd*) 1. A person may not be removed from his own estate, though he is not settled thereby. Ibid. 412.

2. A certificate person may gain a settlement, by residing forty days on his own estate. Cases of S. 121. Str. 163. Burr. Settl. Ca. 221.

3. A certificate man, purchasing an estate of more than 30*l.* value, does not acquire a settlement; but his apprentice does. Str. 1193, 266. Burr. Settl. Ca. 240.

4. Having land in a parish will not make a settlement; but living forty days in a parish where one has land will, and that without notice. 2 Salk. 324.

5. A person having an estate of his own must reside forty days (but that at any time) in the parish where the estate lies to gain a settlement. Burr. Settl. Ca. 125. Viner Settl. D. 12.

SETTLEMENT by MARRIAGE.

1. It is a general rule, that a woman marrying a husband, who hath a known settlement, shall follow the husband's settlement. Cases of S. 89. V. 2. 112.

2. A wife can gain no settlement separate and distinct from her husband. Roding. M. 30. G. 2.

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his own accord to the parish from whence he was removed, one justice may send him to the house of correction, there to be punished as a vagabond. 13 & 14 C. 2. c. 12. f. 3. See No. 35, below.

35. Persons removed returning without a certificate from the parish to which they belong, shall be deemed idle and disorderly, and one justice may commit them on the oath of one credible witness, or by his own view, to the house of correction, there to be kept to hard labour, for a time not exceeding one month. 17 Geo. 2. c. 5. f. 1.

36. And if the church-wardens and overseers of the parish to which such persons shall be removed, refuse to receive them, and provide work for them, as other inhabitants of the parish, any justice of that division shall bind any such officer to the assizes or sessions, there to be indicted for his contempt in that behalf. 13 & 14 Car. 2. c. 12. f. 3.

37. And if any person be removed by virtue of this act, (3 W. c. 11.) from one county, riding, city, town-corporate or liberty, to another, by warrant (ee) of two justices, the church-wardens or overseers of the poor of the parish or town to which the said person shall be so removed, are required to receive the said person; and if he or they shall refuse so to do, such person, so offending, shall (on proof, by the oath of two witnesses, before one justice of the place to which the person shall be removed) forfeit for each offence 5l. to the poor of the parish from whence such person was removed, to be levied by distress; and for want of sufficient distress, shall be committed to the common goal for forty days. S. 10.

38. Such officers, mariners, and soldiers, who have served since November 22, 1748, and not deserted, and also their wives and children, may set up trades in any place; nor shall they, during the time they exercise such trade, be removeable to their place of settle-

(ee) 1. The two justices must be together when the warrant is made out. Str. 1092.

2. A person ought to have notice, and be heard, before he be removed. Andr. 238.

ment, until they actually become chargeable. 3 Geo. 3. c. 8.

39. The gate-keeper at any turnpike-gate shall not be removeable from the toll-house, till he actually becomes chargeable. 7 Geo. 3. c. 40. f. 46.

40. If any person who shall come into a place, there to reside under a certificate, the parish granting such certificate shall be obliged to receive and provide for the person mentioned in the said certificate, together with his family, as inhabitants of that parish, whenever they shall happen to become chargeable to, or be forced to ask relief of the parish to which such certificate was given; and then, and not before, it shall be lawful for any such person and his children, though born in that parish, not having otherwise acquired a legal settlement there, to be removed, conveyed, and settled in the place from whence such certifications are brought. 8 & 9 W. c. 30. f. 1.

41. When any overseer, or other person, shall remove back any persons, or their families, residing under a certificate, and becoming chargeable to the place where they belong, such overseer, &c. shall be reimbursed such reasonable charges as they may have been put to, in maintaining and removing such persons, by the church-wardens or overseers of the place to which they are removed; the said charges being first ascertained and allowed of by a magistrate of the neighbourhood; and in case they refuse to pay the said charges, they shall be levied on them by distress. 3 Geo. 2. c. 29. f. 9.

42. Persons who think themselves aggrieved (*ff*) by any judgment of any two justices, may appeal to the next quarter-sessions, and that only. 13 & 14 Car. 2. c. 12. f. 2. 8 & 9 W. c. 30. f. 6.

43. No appeal from any order of removal shall be proceeded on, unless reasonable notice be given by the church-wardens or overseers of the parish appealing, unto the church-wardens or overseers of the place from which the removal shall be. 9 Geo. c. 7. f. 8.

(*ff*) The party removed may appeal as well as the parish. Carth.

44. And if at the quarter-sessions, judgment is in favour of the appellant, the other party shall reimburse the party aggrieved all their expences, besides costs.—*Ibid.* f. 9.

45. The church-wardens and overseers of the poor of every parish (*gg*), or the greater part of them, shall raise (*hh*) weekly or otherwise (by taxation (*ii*)) of every inhabitant, parson, vicar and other (*kk*), and of every occupier of lands (*ll*), houses (*mm*), tithes (*nn*) impropriate,

(*gg*) The concurrence of the inhabitants in making a rate is not at all necessary; for by these words the church-wardens and overseers may make one without them. *L. Raym.* 1003. 2 *Salk.* 531.

(*bb*) And if they refuse to make a rate, the Court of King's Bench will grant a mandamus to compel them: *K. c. Winchester.*

(*ii*) By this statute the taxation ought to be equal, and therefore should be continually altered as circumstances alter. 2 *Salk.* 536.

(*kk*) 1. Under these words shall be included the taxation of personal estates; and real estates are charged by the words next after; *Burn, Poor, Rate.*

2. And when goods or personal estates are rated, it ought to be done in the same proportion as lands are taxed, namely every 100 l. at the rate of 5 l. a-year, or other reasonable interest. *Read, Poor.*

3. A person who hath lands in his occupation, and a stock of goods and wares besides, as a draper, grocer, and the like, may be taxed for both; but not for such stock or goods which he uses to manure his lands with. *Read, Poor. L. Raym.* 1280.

4. Stock in trade, and the house wherein the stock is kept, may be both rated towards the relief of the poor, and this shall not be a double tax; but if the land be taxed, the stock upon it cannot be taxed also, for this will be double. *Vin. Poor, E. 8.*

5. The toll of a corporation is chargeable with the poor's rate, 3 *Keb.* 540.

6. Ground-rents are also liable to the poor's rate. *Comb.* 62.

(*ll*) The tenant or farmer shall pay this tax, and not the landlord; but the landlord may be rated for any sum of money he has. *L. Raym.* 1280. *Dalt.* 165.

(*mm*) Hospital lands are chargeable to the poor, as well as others, 2 *Salk.* 527. And the apartments of the officers of hospitals. *Burr, Mansf.* 1053.

(*nn*) 1. A parson who lets each parishioner his own tithes, is properly the occupier, and ought to be rated. *Vin. Poor, F. 4.*

2. But if a parson makes a lease of his tithes to one person, who afterwards lets the same to such parishioner, there the lessee is the occupier. So if a man has a wood or standing corn, and sells the same standing, the vender is the occupier, and shall be taxed. 8 *Mod.* 61.

appropriations

appropriations of tithes, coal-mines (oo), or saleable underwoods in the said (pp) parish) a convenient stock of flax, hemp, wool, thread, iron, and other ware and stuff, to set the poor on work; and all competent sums for the necessary relief of the lame, impotent, old, blind, and such other among them being poor, as are not able to work; and also for the putting out poor children apprentices. 43 Eliz. c. 2. f. 1.

46. Where persons shall come into or occupy any premises, out of which any other person assessed shall be removed, or which, at the time of making a rate, was unoccupied, then every person so removing from or coming into, or occupying the same, shall be liable to pay such rate, in proportion to the time that such person occupied the same respectively, under the like penalty of distress, as if such person so removing had not removed, or the person coming in occupying had been originally assessed in such rate; which proportion, in case of dispute, shall be ascertained by two justices. 17 Geo. 2. c. 38. f. 12.

47. Where there shall be any dispute in what place improved wastes, and drained and improved marsh-lands lie and ought to be rated, the occupiers of such lands or houses built thereon, tithes arising therefrom, mines therein, and saleable underwoods, shall be rated to the relief of the poor, and to all other parish-rates, within such place which lies nearest to such lands; and if, on application to the officers of such place, to have the same assessed, any dispute arise, it shall be determined by the justices at the next sessions. 17 Geo. 2. c. 37. f. 1, 2.

48. The said rate or taxation shall be made with the consent of two justices in the neighbourhood (qq). 43 Eliz. c. 2. f. 1.

(oo) That is proportioning them to a yearly benefit. Dalt. 165.

(pp) A man having lands in other parishes than where he lives, the same being in lease or not in lease; he is to be taxed in the parish where he lives, according to his visible estate there, and not for his lands or rent in another parish. 2 Dalt. 165.

(qq) And if the justices refuse to sign and allow the rate, the Court of King's Bench will grant a mandamus to compel them. Str. 393.

49. The church-wardens and overseers shall cause public notice to be given in the church, of every rate for relief of the poor allowed by the justices, the next Sunday after such allowance; and no rate shall be reputed sufficient to be collected till after such notice given. 17 Geo. 2. c. 3. f. 1.

50. And they shall permit any inhabitant to inspect such rate at all seasonable times, paying 1 s. and shall give copies on demand, being paid 6 d. for every twenty-four names. Ibid. f. 2. On pain of forfeiting 20 l. to the party grieved. S. 3. See No. 52, 76.

51. If any person shall be aggrieved by any assessment, or shall have any objection to any person's being put in or left out of such assessment, or to the sum charged on any person or persons therein, he may, giving reasonable notice to the church-wardens or overseers, appeal to the next sessions, where the rate may be allowed, if necessary. 17 Geo. 2. c. 38. f. 4. And the court may award costs, as it shall think proper. Ibid. f. 4.

52. True copies of the rates shall be entered in a book, by the church-wardens and overseers, within fourteen days after all appeals from such rates are determined, and they shall attest the same, by putting their names thereto. And all such books shall be kept by the church-wardens and overseers for the time being, wherein all persons liable to be assessed may freely resort, and shall be delivered over from time to time to the new church-wardens and overseers, as soon as they enter on their offices, to be preserved and produced at the sessions, when any appeal is to be heard. Ibid. f. 13. See No. 50, 76.

53. The church-wardens or overseers, by warrant from any two justices, may levy the rates and arrears, by distress and sale of all who refuse to pay them. 43 Eliz. c. 2. f. 4. 17 Geo. 2. c. 38. See CONSTABLE, No. 16, 17.

54. And where any distress shall be made for money justly due for the poor's-rate, it shall not be deemed unlawful, or the distrainers trespassers for any informality in the proceedings; but the party, if aggrieved, may recover full satisfaction for the real damage he sustains, and

and no more, by an action of trespass, and shall, if he recovers, receive his whole costs; but no plaintiff shall recover, if tender of amends be made before the action is brought. *Ibid.* f. 8, 9, 10.

55. Where there is not sufficient distress, the person shall be committed to the common gaol, till the money be paid. 43 Eliz. c. 2. f. 4.

56. And if any person shall neglect to pay such overseers, the succeeding overseers shall levy the arrears, and shall reimburse their predecessors the sums allowed to be due to them in their accounts. 17 Geo. 2. c. 38. f. 11.

57. If the justices perceive that the inhabitants of any parish are not able to levy among themselves sufficient sums for the maintenance of their poor, they, the justices, may then tax or rate any others (*rr*) of another parish within the hundred, to pay such sums to the church-wardens and overseers of the said poor parish, for the said purposes, as the justices shall think proper. 43 Eliz. c. 2. f. 3.

58. And if the said hundred shall not be thought by the said justices able to relieve the said several parishes not able to provide for themselves, as aforesaid, then the justices, at their general quarter-sessions, shall rate and assess, as aforesaid, any other of the other parishes, or out of any parish within the county. *Ibid.*

59. The father (*ss*) and grandfather (*tt*), mother and grandmother, and children of the poor not able to work,

(*rr*) The justices may impose the charge upon any of the inhabitants of the neighbouring parishes, and are not obliged to put a general tax upon the whole parish. *Comb.* 309. 1 *Ventr.* 350.

(*ss*) The husband must provide for the daughter-in-law during his wife's life, in right of his wife; but when the wife dies, the relationship is dissolved, and he is not bound to make any provision for the daughter-in-law after the mother's death. *Foley*, 39.

(*tt*) 1. The reputed grandfather or grandmother are not within the statute; for a bastard is "*filius populi*." 2 *Bulstr.* 344.

2. If a man marries a grandmother, and has an estate with her in marriage, for this estate he shall be obliged to relieve her grandchild, during his wife's life, but not else. 2 *Bulstr.* 346.

3. Though the father be living, yet if he be unable, the grandfather, if able, may be compelled to keep the grandchild, and also to pay as much as the justices shall think reasonable for the time past. *M.* 6 An. Q. and Joyce. *Vin. Poor.* c. 3.

if of sufficient ability, shall maintain such poor of their family, according to that rate, as by the justices of that county, where such sufficient persons dwell in their sessions, shall be assessed, on pain of 20 s. a month to the poor, to be levied by distress, and for want of distress, the offender shall be committed to the common goal, till the penalty is paid. *Ibid.* f. 2, 7, 11.

60. Where parents run away and desert their families, who become chargeable to the parish, the church-wardens and overseers, by order of two justices, may seize and sell so much of the goods and chattels, and receive so much of the annual rents of the lands and tenements of such husband, father or mother, as such two justices shall direct, towards the discharge of the parish where such family is left; and the said church-wardens, &c. shall be accountable to the justices of the quarter-sessions for all money as they shall so receive. 5 Geo. c. 8. f. 1, 2. And such persons running away shall be deemed, and suffer as incorrigible rogues. 7 Jac. c. 4. f. 8.

61. If a person threatens to run away and leave his wife and children on the parish, he shall, on conviction before one justice, on the oath of one witness, be committed to the house of correction, for any time not exceeding one month. 17 Geo. 2. c. 5. See No. 62, below.

62. If a man or woman threaten to run away and leave their families on the parish, on proof by two witnesses, before two justices, they shall be committed to the house of correction, there to be dealt with as a sturdy and wandering rogue; and to be delivered at the sessions, unless they give security for the discharge of the parish. 7 Jac. c. 4. f. 8.

63. A justice of peace may commit to prison all such poor as shall not employ themselves to work, as directed and appointed by the church-wardens and overseers of their parish (agreeable to No. 9, above). 43 Eliz. c. 2. f. 4.

64. The church-wardens and overseers may, by the consent of two justices, within their respective limits, or with the consent of one, if there be no more, set up and use any trade, only for the setting on work and better relief of the poor. 3 Car. c. 4. f. 22.

65. The

65. The church-wardens and overseers, or the greater part of them, by leave of the lord of the manor, and agreement under his hand and seal, or otherwise by order of the justices in sessions, by like leave of the lord, may build in fit places of habitation, on any waste within the parish, and at the charge of the parish, or otherwise of the hundred or county, convenient dwelling-houses for the poor, and for them only.

43 Eliz. c. 2. s. 5.

66. The church-wardens and overseers of any place, with the consent of a vestry, may purchase or hire any house or houses in the same parish, and contract with any person for lodging, keeping, maintaining, and employing the poor; and the person contracting may employ all such poor as are able to work, and take the benefit of their labour for their better maintenance; and if any poor person shall refuse to be lodged, kept, or maintained in such house or houses, he shall be put out of the parish-book, and shall not be entitled to receive relief from the parish. 9 Geo. c. 7. s. 4.

67. And where any parish or township shall be too small to purchase or hire such house or houses, two or more such parishes or places, with the consent of a vestry in each, and the approbation of a neighbouring justice, may join for the aforesaid purpose, agreeable to the mode pointed at in No. 66. Such poor as refuse to be so lodged and maintained, shall not be entitled to relief in their parishes; but no poor person so lodged out of his own parish, shall thus gain a settlement in the parish where he is so kept. 9 Geo. c. 7. s. 4.

68. In every parish a book shall be kept, wherein the names of all persons receiving collection shall be registered, with the day and year when they were first admitted to relief, and the occasion that brought them under that necessity; and yearly on Easter week, or as often as shall be thought convenient, the parishioners shall meet in the vestry, or other usual place of meeting, before whom the book shall be produced, and all persons receiving collection shall be called over, and the reasons of their taking relief examined, and a new list made and entered of such persons as they shall think

fit

fit and allow to receive collection. 3. W. c. 11. f. 11.
See No. 72.

69. And no other person shall be allowed to receive collection at the charge of the parish, but by authority under the hand of one neighbouring justice, or by order of the justices in sessions, except in cases of pestilential diseases, plague, or small-pox, for such families only as shall be therewith infected. Ibid.

70. And no justice shall order relief (*uu*) to any poor person, until oath be made before him of some matter which he shall judge a reasonable cause of relief; and that the same person had, by himself or some other, applied for relief to the parishioners of some vestry or other public meeting, or to two of the overseers, and was by them refused to be relieved, and until such justice hath summoned two of the overseers, to shew cause why such relief was refused. 9 Geo. c. 7. f. 1.

71. If any church-warden or overseer, or person authorized by him, shall knowingly make any payments to the poor in counterfeit or base money, or in any other than lawful money of Great-Britain, one justice, on complaint, may summon the offender, and on proof of the offence, by the oath of one witness, may adjudge him to forfeit not less than 10 s. nor more than 20 s. to the poor, to be levied by distress. 9 G. 3. c. 37. f. 7.

72. Any person whom a justice may order to be relieved, shall be entered in the books where persons receiving collections are registered. And no officer shall (except on sudden and emergent occasions) bring to the account of the parish any money he shall give to any poor person who is not registered in such book, as a person entitled to receive collection, on pain of 5 l. to the poor, by distress, by warrant of two justices. 9 Geo. c. 7. f. 2. See No. 68, 69, 70.

73. Moreover, every such person as shall be on the collection and receive relief, and the wife and children of such person, cohabiting in the same house, (such child only excepted as shall be by the church-wardens

(*uu*) Justices have no power to order a surgeon's bill to be paid for any poor person or a nurse to attend the sick; 1 Barnardist. 46.
2 ditt. 207, 257.

and overseers permitted to live at home in order to attend an impotent and helpless parent) shall, upon the shoulder of the right sleeve of the uppermost garment, in an open and visible manner, wear a large Roman P, together with the first letter of the name of the parish of which such person is an inhabitant, cut either in red or blue cloth, as by the church-wardens and overseers shall be directed. And if any such poor person shall neglect or refuse to wear such badge, one justice may punish such offender, either by ordering his allowance to be abridged, suspended, or withdraw it, or otherwise by committing him to the house of correction, to be whipt and kept to hard labour, not exceeding twenty-one days; and if any church-warden or overseer shall relieve any such poor person, not wearing such badge, and be thereof convicted on oath of one witness, before one justice, he shall forfeit 20 s. by distress, half to the informer and half to the poor. 8 & 9 W. c. 30. s. 2.

74. No spirituous liquors shall be used or sold in any work-house or house of entertainment for parish poor. 24 Geo. 2. c. 40.

75. The church-wardens and overseers shall, within four days after the end of their year, and other overseers nominated, make and yield up to two justices, a true and perfect account of all sums by them received or rated and assessed and not received, and also of such stock as shall be in their hands, or in the hands of any of the poor to work, and of all other things concerning their office, and deliver over to their successors all the money in their hands; and if they shall be in arrears and not pay, their successors shall, by warrant of two justices, levy the amount by distress on the offender's goods, and, in defect of such distress, such justices may commit him to the common jail until the said arrears be paid; and two justices may commit to the said prison every one of the said church-wardens and overseers which shall refuse to account, there to remain until he have made a true account, and satisfied and paid so much, as upon the said account shall be remaining in his hands. 43 Eliz. c. 2. s. 24.

76. The

76. The church-wardens and overseers shall yearly, within fourteen days after other overseers shall be appointed, deliver unto the succeeding overseers a just account in writing, fairly entered in a book and signed by them, of all sums by them received, or rated and not received; and also of all materials that shall be in their hands, or in the hands of any of the poor to be wrought, and of all money paid by such church-wardens and overseers so accounting, and of all other things concerning their office; and shall also deliver over all sums of money and other things which shall be in their hands to the succeeding overseers; which account shall be delivered upon oath before one justice, who shall sign and attest the taking of the same at the foot of the account without fee; and the said book shall be preserved by the church-wardens and overseers, in some public or other place within the parish, and they shall permit any person assessed, or liable to be assessed, to inspect the same at all seasonable times, paying 6d. for such inspection; and shall upon demand give copies at the rate of 6d. for every three hundred words, and so in proportion. And if they shall refuse or neglect to make and yield up such account, verified as aforesaid, within such time, or shall refuse or neglect to pay over the money and other things in their hands; any two justices may commit them to the common jail, till they have given such account, or shall have paid and yielded up such money and other things in their hands as aforesaid. 17 Geo. 2. c. 38. s. 1, 2.

77. And if any overseer shall remove, he shall, before his removal, deliver over to some church-warden or overseer his accounts verified on oath, with all assessments, books, papers, money and other things concerning his office; and if any overseer shall die, his executors or administrators shall, within forty days after his decease, deliver over all things concerning his office to some church-warden or other overseer, and shall pay out of the assets all money remaining due, which he received by virtue of his office, before any of his other debts are paid. Ibid. s. 3.

78. If any person shall find himself aggrieved by any

any act done by the said overseers or justices, he may appeal to the general quarter-sessions. 43 Eliz. c. 2.

79. Overseers negligent in their office shall forfeit for every default 20 s. to the poor, to be levied by distress, and, in default thereof, two justices may commit the offender to the common jail till the forfeiture be paid. Ibid. f. 2, 12.

80. Any parish officer neglecting to obey any directions of this act, being convicted on oath before two justices, in two calendar months after the offence committed, shall forfeit not exceeding 5 l. nor less than 40 s. to the poor, by distress. 17 Geo. 2. c. 38. f. 14.

81. In all actions for the recovery of any sum mispent or taken to their own use by the church-wardens or overseers, the evidence of the parishioners that do not receive alms shall be admitted. 3 W. c. 11. f. 12.

82. If any action be brought against any overseer, or other person which in his aid, or by his commandment, shall do any thing concerning his office, he may plead the general issue, and if he recovers he shall have double costs. 7 Jac. c. 5. and 21 Jac. c. 12.

83. And by the 43 Eliz. c. 2. persons sued for any thing done on that act, may plead the general issue, and have treble damages with costs. S. 19.

VAGRANTS.

84. Any person may apprehend those, who, not having wherewith to maintain themselves, live idle without employment; those who beg, and all beggars, and take them before a justice; and if they shall resist or escape from the person apprehending them, they shall be punished as rogues and vagabonds, that is, be whipped at the cart's tail and imprisoned; and the said justice may order any overseer where such offender shall be apprehended, to pay 5 s. to any person in such parish for every offender he so apprehends, to be allowed in his accounts, and if the overseer shall neglect or refuse to pay the same, it shall be levied by distress and sale of his goods, and in this case it shall not be allowed in his account. 7 Jac. c. 4. 17 Geo. 2. c. 5. f. 1.

85. If any person, not a constable, shall apprehend any vagrant, and shall deliver him to a constable or convey him

him to a justice, such justice may reward him by ordering the high constable to pay him 10s. to be reimbursed by the treasurer out of the county-rate, and if the high constable shall not pay it, he shall forfeit 20l. by distress and sale of his goods. 17 Geo. 2. c. 5. s. 5.

86. The parish or place to which any rogue, vagabond, or incorrigible rogue, shall be conveyed by a pass, shall employ in work, or place in some work-house or alms-house, the person so conveyed, till he shall betake himself to some service or other employment, and if he shall refuse to work, or not betake himself to some employ, the overseers may cause him to be carried to some justice, to be sent to the house of correction, there to be kept to hard labour. *Ibid.* s. 19.

87. If any person shall knowingly permit any rogue, vagabond, or incorrigible rogue, to lodge or take shelter in his house, barn, outhouse, or other building, and shall not apprehend and carry him before a justice, or give notice to the constable so to do, he shall, on the oath of one witness before one justice, forfeit from 10s. to 40s. half to the informer and half to the poor, by distress and sale; and if any charge shall be brought on any place by means of such offence, the offender shall pay the same, to be levied by distress, and, for want of distress, a justice may commit him for any time, not exceeding one month. *Ibid.* s. 23.

88. Whereas women wandering and begging are often delivered of children in parishes to which they do not belong, the church-wardens or overseers may detain such women until they can convey them before a magistrate, who may commit such person, and shall order the treasurer of the county to pay them the charges they have been at on her account. *Ibid.* s. 25.

See CONSTABLE, No. 19, 20.

PARISH APPRENTICES.

89. The church-wardens and overseers, or the greater part of them, with the assistance of two justices, are empowered to bind the children of such parents parishioners as are not able to maintain them, to be apprentices where they may see convenient; if a boy, till he comes to the age of twenty-four; if a girl, to the age

age of twenty-one, or of the time of marriage. 43 Eliz.

90. Such persons to whom any poor children are appointed by the overseers to be bound apprentices, shall receive and provide for such children according to the indentures, on pain of 10 l. penalty to the use of the poor, to be levied by distress; provided, however, that the person to whom a child is appointed to be bound shall be an inhabitant or occupier of land in the parish to which such child belongs (*ww*). 8 & 9 W. 3. 20 Geo. 3. c. 36.

91. With the approbation of the justices, overseers may bind out any boys at the age of ten years or upwards, or whose parents are chargeable to the parish, or who shall beg for alms, to be apprentices to the sea-service to any of his Majesty's subjects, masters or owners of any ship belonging to any port within England, Wales, or Berwick, until such boys shall attain the age of twenty-one, and the age of such boy shall be mentioned in his indentures, taken from a copy of the register-book, if it can be found, if not, from the best information they can get, and the age so inserted shall be taken to be his true age. 2 Ann.

92. And they shall pay such master at the time of his binding 50 s. to find cloathing and bedding. Ibid.

93. And every master and owner of a ship from thirty to fifty tons burthen, shall be obliged to take one apprentice, and one more for the next fifty tons, and one more for every 100 tons such ship shall exceed the burthen of a hundred tons, on pain of 10 l. to the poor of the parish from whence such boy was bound. Ibid.

94. Such apprentice to be conveyed by the overseers or their agents, and the charges thereof paid out of the general county-rate (*xx*). 11 & 12 W. 3. 12 Geo. 2.

(*ww*) Clergymen are not exempt from this, but are equally bound to take an apprentice as others.

(*xx*) As this business is to be done under the sanction of two justices, church-wardens will learn how to conduct themselves therein from the bench.

The Duty of Church-Wardens respecting Briefs.

95. When copies of briefs are delivered to the wardens of churches and chapels, &c. immediately after receipt, they are to indorse the time of receiving, with their names thereon, and forthwith deliver them to the ministers and curates, who shall likewise indorse the time of their receipt, and their names in like manner as the church-wardens. 4 Ann. c. 14.

96. After the ministers, &c. have read them, which shall be in two months after their receipt of them, the church-wardens shall collect the money that shall be given in church or chapel, or go from house to house, as the brief shall set forth. Ibid.

97. The sums collected, place and time, must be indorsed on the brief, in words at length, and signed by the minister and church-wardens, and the briefs indorsed, and money collected, shall be delivered to the persons undertaking the brief, within the space of six months, under the penalty of 20 l. Ibid.

98. And the church-wardens shall keep a register of all monies collected, inserting the occasion of the brief, and the time when collected; to which all persons may have a free resort. Ibid.

See CLERGY, 47.

CONSTABLE.

1. **I**N every hundred and franchise two constables (aa) shall be chosen (a). 13 Edw. 1. ft. 2. c. 6.
2. If a constable shall die or go out of the parish, any two justices may make and swear a new one, till the next quarter sessions, who may approve of the officer so made and sworn, or appoint another. 13 & 14 Car. 2. c. 12. s. 15.
3. High constables are to take the oaths of allegiance, supremacy, and abjuration. 1 Geo. ft. 2. c. 13.
4. The president, commons, and fellows, of the faculty of physic in London, shall not be chosen constables (b). 32 Hen. 8. c. 40.

(aa) 1. High and petty constables are, by the common law, conservators of the peace. 2 Haw. 33. Crom. 6. Dalt. c. 1.

2. And therefore, if any man shall make an affray or assault upon another, in the presence of the constable, or shall threaten to kill, beat, or hurt another, or shall be in a fury ready to break the peace, the constable may commit him to the stocks, or other safe custody, for the present, and after may carry him before a justice or to gaol, until he shall give surety for the peace; which surety the constable himself may also take by obligation, to be sealed and delivered to the king's use; and if the party will not find surety to the constable, he may imprison the party till he shall. Dalt. c. 1. See Note (f) 2.

3. But he cannot do as above, unless he was present at the quarrel. Cro. Eliz. 375, 376.

4. The constable is bound to execute a justice's warrant, and is indictable for disobeying it. 2 Haw. 262.

For the duties of the office, see the end.

(a) 1. The high constable of hundreds shall be chosen either at the sessions, or by the greater number of justices of the division. Dalt. c. 28. See Note (g), 2, 3, 4.

2. Petty-constables are usually elected by the parishioners, and sworn in by the justices. 2 Haw. 65. 4 Inst. 267. See Note (g) 2, 3, 4.

3. Constables lawfully chosen, if they shall refuse to be sworn, a justice of the peace may bind them over to the assizes or sessions, there to be indicted. Dalt. c. 28.

4. The inhabitants shall serve the office of constable by turns, and if it falls to a woman, she shall procure a person to serve it for her. 2 Haw. 63.

(b) But any other practising physician may. Ibid.

5. Surgeons in London (c) shall be freed and exempted from the office of constable. 5 H. 8. c. 6. 18 Geo. 2. c. 15.

6. Apothecaries in London, and within seven miles thereof, being free of the company of apothecaries, and also those in the country who have served seven years apprenticeship, shall be exempted from the office of constable (d). 6 & 7 W. c. 4.

7. A person serving for himself as a private man in the militia, shall, during the time of such service, be exempted from the office of constable. 2 Geo. 3. c. 20. s. 76.

8. Every teacher or preacher in holy orders, or pretended holy orders, in a congregation tolerated by law, shall, from the time of his subscription and taking the oaths, be exempted from the office of constable. 1 W. c. 18. s. 11.

9. The prosecutor of a felon to conviction, or person to whom he shall assign the judge's certificate thereof, shall be discharged from the office of constable. 10 & 11 W. c. 23. s. 2, 3.

10. If any person dissenting from the Church of England shall be chosen constable, and shall scruple to take upon him the office, in regard of the oaths, or any other matter required to be done in respect of such office, he may execute it by a sufficient deputy (e) by him to be provided, to be allowed by such persons and

(c) And elsewhere, by the equity of the statute. Comyns, 312.

(d) 1. Barristers and attornies are exempt from the office; also all other officers of the courts of Westminster. 2 Haw. 63.

2. Aldermen of London are also exempt, and servants to members of parliament. Ibid.

3. And, 'tis said, if gentlemen of quality are chosen, and there are sufficient people besides, they may be relieved by applying to the court of King's Bench. 2 Haw. c. 63, 64.

(e) 1. As the office of constable is no way judicial, he may appoint a deputy to execute a warrant directed to him, when by reason of sickness, absence, or otherwise, he cannot do it himself; yet it doth not seem to be settled, that he can do it without some special cause. 2 Haw. 62.

2. And the superior must be answerable for his deputy, upon any miscarriage, unless the deputy is duly allowed and sworn; for then he is a constable. Wood, b. 1. c. 7.

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in such manner as such officer should have been allowed. 1 W. c. 18. f. 7.

11. If an action is brought against a constable for any thing done by virtue of his office, he and also all others which in his aid, or by his command, shall do any thing concerning his office, may plead the general issue, and give the special matter in evidence, and if he recovers he shall have double costs. 7 Jac. c. 5.

12. No action shall be brought against any constable, or other person acting by his order, for any thing done in obedience to the warrant of a justice of the peace, until demand hath been made or left at the usual place of his abode, by the party or his attorney, in writing, signed by the party demanding the same, of the perusal and copy of such warrant, and the same hath been refused or neglected for six days after such demand: and if after compliance therewith, any such action shall be brought, without making the justice who signed such warrant defendant, on producing and proving such warrant at the trial, the jury shall give their verdict for the defendant, notwithstanding any defect of jurisdiction in the justice; and if such action be brought against the justice and constable, on proof of such warrant, the jury shall find for the constable, notwithstanding such defect of jurisdiction as aforesaid; and if the verdict be given against the justice, the plaintiff shall recover his costs against him, to be taxed in such manner by the proper officer, as to include such costs as the plaintiff is liable to pay to such defendant, for whom such verdict shall be found as aforesaid (f). 24 Geo. 2. c. 44.

13. And no action shall be brought against any con-

(f) 1. By this it seemeth that the constable ought not to return the warrant to the justice, but to keep it for his own justification; for he cannot grant to the party the perusal of the warrant, unless he hath it; but he must certify to the justice what he hath done in the execution thereof.

2. And if the constable is assaulted in the execution of his office, he need not go back to the wall, as private persons ought to do: and if in the striving together, the constable kills the assailant, it is no felony; but if the constable is killed, it shall be construed premeditated murder. Hales, Pl. 37. 1 H. II. 457.

stable but within six months after the act committed. *Ibid.* f. 8.

14. The constable executing a warrant for levying a penalty by distress, may deduct his own reasonable charges of taking, keeping, and selling the goods distrained, returning the overplus on demand. 27 Geo. 2. c. 20.

15. A person committed to gaol for any misdemeanor, shall bear his own charges (if able) for conveying or sending him there, and the charges of those that guard him; and if he shall refuse at the time of commitment to defray the same, or shall not then pay the same, the justice shall, by warrant to the high or petty constable where the person shall inhabit, or from whence he shall be committed, or where he shall have any goods within the county, order so much to be sold thereof, as by his discretion shall satisfy the same, the appraisement to be made by four honest inhabitants. 3 Jac. c. 10. f. 1.

16. And if he have not goods within the county sufficient to pay the expences, the constable may make application to a justice, who may on oath examine into, and ascertain the reasonable charge, and shall, by his warrant (without fee) order the treasurer to pay the same, except in Middlesex, where the same shall be paid by the overseen of the parish where the person was apprehended. 27 Geo. 2. c. 3.

17. The constables, together with the church-wardens and overseers, and other inhabitants, shall make a rate in like manner as the poor-rate in Poor, No. 45. (which see) in order to reimburse the constable's charges, in passing vagrants and conducting persons to prison, and being confirmed under the hands and seals of two justices, the same may be levied by distress.

18. The high constables shall, at the general or quarter sessions, if thereunto required, account for the general county rate by them received, on pain of being committed to gaol until they shall account, and shall pay over the money in their hands according to the order of the said court, on like pain. 12 Geo. 2. c. 29. f. 8.

19. The

19. Every constable or other such officer shall, every three months, and within fourteen days after he shall go out of his office, deliver to the overseers of the poor a just account in writing, fairly entered in a book kept for that purpose, and signed by him, of all sums legally expended by him on account of the parish or place where he belongs, and the overseer shall, within fourteen days next after the account so delivered, lay the same before the inhabitants; and if approved by the majority of them, the overseers shall pay the amount out of the poor's rate. If the account, or any part thereof, shall be disallowed, the overseers shall deliver back to the constable, or other officer, such book of accounts, who may then produce the said book to a justice, giving reasonable notice thereof to the overseer, which justice shall examine the same, and determine any objection made, and settle the sum to be paid, and sign his name to it, and the overseers shall pay the same accordingly. 18 Geo. 3. cap. 19. s. 4.

20. And if the overseer shall think the parish aggrieved by such determination, he may, giving reasonable notice to the justice or constable, appeal to the next general quarter sessions, where the matter shall be finally determined, with reasonable costs, to be paid by the party against whom the determination is made. 1b. s. 5, & 6.

21. If a constable shall continue above a year in his office, the sessions may discharge him, and put another in his place, till the lord shall hold a leet (g). 13 & 14 Car. 2. c. 12. s. 15.

22. None to be constables who are 63 years of age or upwards. 31 Geo. 2. c. 17. s. 13.

(g) 1. And if the court or other judge shall refuse to discharge a constable, the King's Bench may compel them by mandamus. 2 Haw. 65.

2. And in such manner as constables are to be chosen, so are they to be removed, if requisite. Dalt. c. 28.

3. Of course the sheriff or steward of the leet, having power to place a constable in his office, have also a power of removing him. 2 Haw. 63.

4. And also the justices of the peace have always used, for good cause, to displace such constables as have been chosen and sworn by them. 2 Haw. 65.

The Duty of the High and Petty Constable.

HIGH CONSTABLES.

1. The high constable has the direction of the petty constables, headboroughs, and tythingmen, within his hundred: his duty is to keep the peace and apprehend felons, rioters, &c. to make hue and cry after felons, and take care that the watch be duly kept in his hundred, and that the statutes for punishing rogues and vagrants be put in execution. He ought to prevent unlawful games, tippling and drunkenness, bloodsheds, affrays, &c. he is to execute precepts and warrants directed to him by justices of the peace, and make returns to the sessions of the peace to all the articles contained in his oath, or that concern his office, and shall also cause the petty constables to make their returns. He is to return all victuallers and alehouse-keepers that are unlicensed, and all such persons as entertain inmates who are likely to be a charge to the parish. He must likewise present the faults of petty constables, headboroughs, &c. who neglect to apprehend vagrants and idle persons, whores, night-walkers, mothers of bastard children, like to be chargeable to the parish, &c. and also all defects of highways, bridges, and the names of those who ought to repair them: scavengers who neglect their duty, and all common nuisances in streets and highways; bakers who sell bread under weight, brewers selling beer to unlicensed alehouses, forestallers, regrators, ingrossers, &c. And at every quarter sessions they are to pay to the treasurer of the county, all such money as hath been levied and received by them of the churchwardens, &c. for the relief of prisons and hospitals. Dalt. Ca. 28 Lamb. 125. They may also hear and determine complaints of clothiers and their work people. 4 Ed. 4. c. 1. 39 Eliz. c. 20. 7 Jac. 1. c. 16.

2. The authority of petty constables in their several towns, tithings and boroughs, is generally the same as the high constable within his hundred; they are to keep the peace in the absence of the high constable,
and

and assist him in making presentments at the assizes and quarter sessions of every thing that is amiss; they may command affrayers to keep the peace and depart, and may break into a house to see the peace kept; make fresh pursuit into another county, &c. Also they may command all persons to assist, to prevent a breach of the peace; and justify beating another if assaulted. They may, without a warrant, take into custody any persons whom they see committing a felony, or breach of the peace, but not if it be out of their sight. Dalt. c. 1. 8. Lamb 125.

3. High and petty constables are to obey all orders of the General Quarter Sessions, and the petty constables are to aid and assist the high constable, in all orders he is bound to execute, in pain of being fined by the court. 31 Geo. 2.

4. All fines imposed on the high bailiff for any fault or neglect under the statute of 31 Geo. 2. are to be levied by the high constable by distress. Ibid.

Assessments. All money assessed on any parish for the relief of prisoners, is to be paid by the proper officer to the high constable, and to be by him paid over to the collector appointed by the quarter sessions to receive the same, and on his neglect so to do he forfeits 5l. 14 Eliz.

Clothiers. 1. The high constable may enter the premises of any clothier, and search if he has any ropes for stretching cloth, secreted in or about his premises. If he finds any, he must destroy them. If they are again used by the clothier, he may seize and sell them, and distribute the money among the poor of the parish where the offence was committed: such as obstruct him in this duty forfeit 10l. 39 Eliz.

2. Every high constable shall have power to hear and determine the complaints of any cloth-maker, carder, spinster, or other labourers in the manufacturing of cloth, by the examination of the parties; and if found guilty he may commit them to the next gaol within the county, till the duties, forfeitures and damages incurred by the party are fully paid. 4 Edw. 4.

County-

County-rate. All monies raised for the poor by a general county rate, are to be collected by the high constable of the hundred, 12 Geo. 2. and he is to pay the money he receives to the treasurer appointed by the justices at their sessions, on pain of being committed till he does. Ibid.

Juries. High constables on receiving warrants from the justices, are to summon the petty constables to meet and prepare lists of persons qualified to serve on juries; 4 W. & M. and on receiving the lists from the petty constables, they are to deliver them in to the quarter-sessions on pain of 10l. 3 Geo. 3.

See *impressing* below.

PETTY CONSTABLES.

1. Petty constables are to execute all warrants of justices, and not dispute them, where the justice hath jurisdiction, and the warrant is lawful: and being sworn officers, they need not shew their warrants when they come to arrest any one. 10 Rep. 76. Note, the special matter charged against the offender must be set forth in the warrant, or it is illegal; if such a warrant is served, the constable is liable to be prosecuted.— 14 Hen. 8. 2 Inst. 621. See No. 12 above, p. 125.

2. If a warrant be directed to a constable by name, commanding him to execute it, though he is not compellable to go out of his own parish, yet he may if he will; but if the warrant be directed to *all* constables, &c. generally, no constable can execute the same out of his precinct. 1 Salk. 175. 2 Salk. 99.

3. It is at the option of a constable to take an offender before any other justice than him who issued the warrant; if the warrant be not special, to bring the offender before the justice that granted it. 5 Rep. 59.

4. A constable may execute a warrant in any other county, &c. if indorsed by a justice of such other county, &c. and if the offender shall give bail, the constable is to deliver the recognizance, examination or confession of the offender, and all other proceedings

ings relating thereto, to the clerk of assizes, or clerk of the peace of the county, &c. where the offence was committed, under the penalty of 10l. But if the offence shall not be bailable, or the offender shall not give bail, the constables shall carry the offender before a justice of the county, where the offence was committed. 24 Geo. 2. c. 55.

As a constable is bound to obey a justice's warrant, it is needless to point out his duty very particularly, where such warrant will direct him, but to lead him partly on his way, I will just hint at his duty under the different heads which are here rendered alphabetically.

Adultery. If a constable be informed that a man and woman be in adultery or fornication together, or that a man and woman of evil report are gone to a suspected house together in the night, the constable may take company with him, and if he find them so, he may carry them before a justice of peace, to find sureties for their good behaviour. 13 H. 7. c. 10. Bro. Traverse, 432. Dalt. Just. c. 75. fol. 189.

Affray. A constable is not only empowered, as all private persons are, to part an affray in his presence, but is bound at his peril to attempt it, not only by doing his utmost himself, but also by demanding the assistance of others, which they are bound to give him, under pain of fine and imprisonment. 1 Bac. Abr. 441.

2. If he see persons actually engaged in an affray, or on the point of engaging, as where one threatens to beat another, &c. he may either carry the offender before a justice, and bind him to keep the peace, &c. or may himself imprison him a reasonable time, till the heat be over, and afterwards detain him till he gives such surety by bond; but he must not lay hands on those who barely contend with words, without any threats of personal heat; all he can do in such case is to command them, on pain of imprisonment, not to fight. Ibid.—See *apprehending offenders* below.

3. Nay he may break open doors to preserve the peace; for if affrayers fly to a house, and he freshly follow,

follow, he may break open the doors to take them.—
Ibid.

4. He cannot, of his own authority, compel a man to find sureties, who is delivered into his hands, as having broken the peace in his absence, but ought to carry him before a justice. Ibid.

Alehouses. Constables are to carry persons selling ale without a licence before a magistrate. 11 Geo. 2. c. 20.

2. If they do not levy the penalty of 20 s. on alehouse-keepers, convicted before a magistrate of selling by short measure, they shall forfeit 40 s. or if they do not levy 10 s. on such publicans as suffer tippling in their houses, or 3 s. 4 d. on tipplers convicted of the offence, they shall forfeit 10 s. 11 & 12 W. and 1 Jac. 1.

3. Indeed they are to search and examine if any persons use other measures than such as are Winchester and standard measure. 22 Car. 2. c. 8.

Sec apprehending offenders, 17.

Apprehending Offenders. If a constable takes up any person, it must be on an actual breach of the peace, or on good grounds of suspicion, and the cause of his suspicion must be shewn. 11 Mod. 248.

2. A constable may (if an affray be made in his presence, tending to a breach of the peace) seize the offender without a warrant; but after the affray is over, he cannot. 2 Inst. 52.

3. All persons who are present when a felony is committed, or a dangerous wound given, are bound to apprehend the offender, on pain of fine and imprisonment. 2 Hawk. 74.

4. A private person is bound to assist an officer (demanding his help) for the taking of a felon, or in the suppression of an affray. 2 Hawk. 75.

5. A sworn constable, in executing a warrant, need not shew it to the party, though he demand a sight of it; but in arresting him, he ought to acquaint him with the substance of it. 6 Co. 54. 9 Co. 69. He ought to shew it if he acts out of his precinct, or is not sworn or commonly known, 2 Hawk. 85, 86.

And

And in this case, if he does not shew it, the other party may resist. Dalt. c. 169. In cases of distraining he must shew the warrant, and give a copy of it if desired. 27 Geo. 2. c. 20.

6. An unlawful arrest, without a justice's warrant, cannot be made good by a warrant taken out afterwards. 1 Bac. Abr. 442.

7. If the constable, after arresting an offender by warrant, suffers him to go at large, on promise to return again, he cannot, by virtue of the same warrant, arrest him a second time. Ibid.

8. A constable cannot justify an arrest by virtue of a warrant which expressly appears in the face of it to be for an offence where a justice of peace has no jurisdiction, or to bring the party before him at a place out of the county for which he is a magistrate. Ibid.

9. A constable is not compellable to execute a warrant out of his district. Holt, Ch. J. Cumb. 446. But if it be directed to him solely by name, he may if he pleases, provided the place be in the jurisdiction of the magistrate that grants the warrant. 11 Mod. 246. 1 Salk. 176.

10. A man may have a warrant, on a felony committed, to search a suspected house, but it is at his risk to execute it in due time, and at suspected houses only; and though a constable may, by virtue of such warrant, search the house, yet if he goes beyond his warrant, by which any one is damaged, he is answerable for it. Holt, Ch. J. 12 Mod. 344.

11. When a constable has a warrant he is tied up to that warrant, to act only as that directs. Mod. 248.

12. A constable cannot justify an arrest by virtue of a justice's warrant, for a matter appearing to be out of his jurisdiction. 2 Hawk. Pl. C. 81. cap. 13. sect. 10. But he may, by force of a *general* warrant, expressing no certain time. Ibid. f. 11.

13. If a warrant is directed to one, two, or more constables jointly, any one of them may execute it. Dalt. cap. 169.

14. The officer to whom a warrant is directed and delivered, ought with all speed and secrecy to find out the party and execute it. Ibid.

15. An arrest in the night is good. 9 Co. 66.

16. Constables and others may, on having the warrant indorsed in another county into which an offender shall have escaped, arrest an offender in such other county, and carry him before the justice who indorsed the warrant, or some other justice of such other county.

17. On a warrant for a public cause of suspicion of felony, the person to whom such a warrant is directed, may break open doors to take the person suspected, if on demand he will not surrender. 1 H. H. 580, 583. 2 H. H. 117. See *Affray*, 3.

As he may break open the party's house, so may he break open the house of another to take him; but then he must at his peril see that the felon be there; for if he is not, he is a trespasser to the stranger whose house it is. 2 H. H. 117.

A constable may break open doors on a search warrant; if the goods are not found there, the person who occasioned the warrant is alone punishable. 2 H. H. 151.

A constable may also break open the doors of a public house, where there is a noise at an improper hour, in case he is refused admittance.

In all cases where an officer to serve a warrant enters a house, the doors being open, and then the doors are locked upon him, he may break them open to regain his liberty. 2 Hawk. 87.

18. If an officer with a lawful warrant kills a felon in the discharge of his duty, and where he is opposed, it is no murder. 2 H. H. 118, 119.

19. A constable saying, "I arrest you in the king's name," is a sufficient execution of his warrant, and the party at his peril must obey him. If the party arresting is not a lawful officer, or hath not a warrant, the party aggrieved may have his action of false imprisonment. Dalt. c. 169.

20. The officer arresting must lay his hand on the offender, or lock the door upon him, otherwise it is no arrest. 1 Salk. 79. 2 Hawk. 129.

21. If the party arrested escape, the officer may take him again and again, whenever or wherever he finds him. Dalt. c. 169.

22. If

22. If a constable has no warrant, it is sufficient in arresting, to say he is a constable, and does it in the king's name. H. H. 583.

How an officer or other person is to conduct himself, after he has apprehended a person.

22. When a private person hath arrested a felon, or one suspected of felony, he may detain him in custody a reasonable time; but he must with all convenient speed dispose of him as follows :

He may carry him to the common gaol (now very rarely done). 1 H. H. 589. 2 H. H. 77.

He may deliver him to the constable, who may carry him to gaol, or before a justice. 1 H. H. 589.

Or, he may take him to a magistrate himself. Ibid.

23. If the constable or his watch hath arrested affrayers, or persons drinking in an alehouse disorderly at an unreasonable time of night, he may put the persons in the stocks, or in a round-house or prison, if there be one in his precinct, till the height of their passion or intemperance be over, though he release them afterwards, or till he can bring them before a justice. 2 H. H. 95.

24. If the arrest is by warrant, he is forthwith to bring the party as directed by the warrant, either before the justice who granted it, as set forth, or before any magistrate of the same county the officer pleases, not at the option of the prisoner. 1 H. H. 582. 2 H. H. 112.

If the time be unreasonable, as in or near night, whereby he cannot attend the justice, or if there be danger of a present rescue, or the party be sick, he may secure him in the stocks, or in a house, till the next day, or such time as it may be reasonable to bring him. 2 H. H. 120.

25. If a constable or other person who hath a prisoner under arrest for felony or suspicion thereof, voluntarily suffer him to escape or go at liberty (though this be breaking of prison), yet it is felony in him that letteth him escape, but not felony in the prisoner; but if such prisoner escape by the negligence of the con-

stable, &c. he may be fined for such negligence. Bro. Coron. 112. Dalt. Just. c. 107. fol. 272.

So if a constable voluntarily suffer a prisoner to go into the water to drown himself, and he do it, this act is felony in the constable; but if the thief without the constable's assent make away with himself, the constable is only fineable. Dalt. Just. c. 106. fol. 272.

If a man be taken up on a suspicion of felony, and afterwards the person in whose custody he is, shall have intelligence that no such felony is committed, he may set the prisoner at liberty. 13 H. 7. c. 7. and Crompt. 40. Dalt. c. 106. fol. 272.

But if a felony be really committed, and one is arrested for the same, or for suspicion thereof, though the constable; or other person that made the arrest, shall after have certain intelligence and knowledge that the party arrested is not guilty of the offence, yet they may not set the party at liberty. Crompt. 40, 44. Ass. 12. Dalt. c. 106. fol. 275.

26. Where a felon flies to another county before he can be taken, the officer in pursuit of him may make hue and cry after him, may seize and make an inventory of his goods; and if he be taken in another county, must take him before a justice of the county where he apprehends him. Bro. Faux. Impr. 25. Dalt. c. 118. fol. 340. 27 Eliz.

27. The constable that shall imprison in the stocks any felon, may lock the stocks, and if need be may put irons on the prisoner; and when he conveys him to the gaol or justice, he may pinion him or otherwise make him sure, so that he cannot escape. Dalt. Just. c. 118. fol. 324.

28. If any shall abuse a constable in the execution of his office, he may bind the offender to his good behaviour. Fitz. Abr. 202. Crompt. 135.

Armed persons. A constable is to stop such persons as go or ride unlawfully armed in terror of the people, take away their arms, and carry them before a justice. Dalt. 338.

Artificers leaving the kingdom. On sufficient proof that a person who exercises any particular manual art or calling, is about to depart the kingdom, and going to reside abroad,

abroad, the constable may procure a warrant from a justice, and bind him not to depart the realm. 5 G. 1.

Bawdy-houses. The constable of the district, on the information in writing of two inhabitants paying scot and lot, of any body keeping a bawdy-house, gaming-house, or any other disorderly house in such parish, must go forthwith with such inhabitants before a justice, and on their making oath that they believe the same to be true, and entering into a recognizance of 20 l. each to produce evidence against such person for such offence, the constable must enter into a recognizance of 30 l. to prosecute; but he shall be allowed all reasonable expences that he may incur in such prosecution: if he refuses to comply in this business, he shall forfeit 20 l. to such inhabitants as gave him the notice. 25 Geo. 2.

2. A constable may, with others called to his assistance, enter bawdy-houses, and arrest persons with lewd women, for breach of the peace. Mich. 13 Hen. 7.

Beggars. Every person shall apprehend, or cause to be apprehended, such rogues as he shall see or know to resort to his house to beg, or receive any alms, and shall cause them to be carried to the next constable, on pain of forfeiting 10 s. and the constable is to whip and convey such rogues, in the manner pointed out under *vagabonds*, on pain of forfeiting 20 s. 1 Jac. 1. c. 7. Dalt. Just. c. 47. fol. 128.

Bridges. The constable, where a common bridge is come to decay within his district, and it is not known who is liable to repair the same, shall assemble and call together two of the most able inhabitants in the parish, to make an assessment on the said parish to repair the same, such assessment to be allowed by four justices of the peace. 28 Hen. 8.

Cattle, &c. Constables are impowered to seize all cattle, sheep, swine, beef, pork, bacon, &c. brought from Ireland. They are to cause the cattle to be killed in six days after the party is convicted of the offence; the hides and tallow, on such conviction, to become the property of the seizer, and the remainder to be delivered to the church-wardens, for the use of the poor.

of the parish to which such contraband commodities were imported or found. 18. 20, 32. Car. 2.

Church, absenters from. Constables are to present once a year to the quarter-sessions, those who absent themselves from church for the space of one month, and the names of their children above nine years of age living with them, and such servants as they have, on pain of forfeiting 40 s. 3 Jac. 1.

Commons, driving off. Constables are to assist at Michaelmas, or within 15 days after, in driving off commons, forests, &c. horses and other cattle, on pain of 40 s. 32 Hen. 8: c. 13. See *Horses*, 14.

Conventicles. If constables know or are informed of any unlawful conventicle within their precinct, and do not inform some justice of peace thereof, so as that the parties may be convicted and brought to justice, they shall forfeit 10 l. for every such offence. 22 Car. 2.

2. On information of these meetings, the constable, with his assistants, by warrant, on refusing to let them enter, may break open doors, &c. and enter into any house where such meetings are, and take all the parties into custody. *Ibid.*

3. The houses of peers, and those of Protestant dissenters, are not liable to be searched under this statute. *Ibid.*

4. If sued for any act done under this statute, the party against whom the action is brought may plead the general issue, give the special matter in evidence, and recover treble costs. *Ibid.*

Deserters. Persons suspected of desertion may be taken by a constable, and carried before a justice, for which he shall have a reward of 20 s. 5 Geo. 1: c. 11. f. 19.

Excise. Officers of excise, called gaugers, are to have the constable with them when they enter by night into the houses of any brewer, innkeeper, victualler, &c. to gauge their coppers, &c. or take account of their beer, &c. 12 Car. 2. c. 23 & 24.

Fires. On breaking out of any fire, constables, &c. are in their respective districts to attend and assist in stopping its progress, and to keep the people attending to work the engines, &c. 6 Ann.

Fore-

Forestallers. The constable is to present at the quarter-sessions, forestallers of markets, and ingrossers and regrators. 31 Geo. 2.

Fornication. See *Adultery*.

Game. Constables are to carry higlers, chapmen, innkeepers, &c. before a justice, if any game is found in their custody unlawfully. 5 Ann. Also persons not qualified to kill game. See the Game Acts.

Gaming. They are to search once a month for gaming-houses, and then take into custody and imprison the masters and gamesters, till they find sureties not to offend again, though it is best to take them before a magistrate. Neglect of this duty is a penalty of 40 s. 33 Hen. 8. c. 9. 12 Geo. 2. c. 28. See *Bawdy-houses*.

Gaol. If gaolers refuse to receive a felon, the constable may either secure the prisoner in his own house, or carry him back to the town where apprehended, and the town must keep him till the next assizes. 5 Hen. 4. Dalt. 340.

Harvest-time. They may in hay and corn harvest-time set artificers and ordinary tradesmen to work by the day, and if they refuse to work, they may set them in the stocks, for the space of two days and one night. If the constable neglects his duty he forfeits 40 s. 5 Eliz. c. 14.

Hawkers. If any constable refuses to assist in putting the laws into execution against hawkers and pedlars, that travel without licences, he shall forfeit 10 s. 9 & 10 W. 3. & 16 Geo. 2.

Hedge-breaking. Constables may apprehend persons suspected of hedge-breaking, or with having in their possession any underwood, poles, gates, stiles, &c. and carry them before a justice, &c. and they are to whip the offenders when convicted. 49 Eliz. c. 7. 15 Car 2. c. 2.

Highways. They are to be aiding and assisting in putting the acts in execution relative to repairing the highways, and they are to return lists of persons qualified to serve the office of surveyor, to the justices in their sessions in the week next after the Michaelmas general quarter-sessions yearly, on pain of forfeiting from

40 s. to 10 l. See the Highway Act, and 22 Car. 2. c. 12, &c.

Hue and Cry. They are to make hue and cry after a felon that hath escaped, when notice is given them, by calling the parishioners to their assistance, on pain of being indicted and fined; 27 Eliz. and forfeiting 5 l. 8 Geo. 2. c. 16.

2. When an offender is taken on hue and cry, the constable shall levy a tax to ensure an execution or recovery against the hundred, and pay the same to the sheriff. 8 Geo. 2.

3. If in this hue and cry the criminal be not found within his precinct, he is to give notice to the next constable, and that constable to the next, if necessary, and so on, from town to town, and county to county. 13 Edw. 1. st. 2. c. 6. 27 Eliz. c. 13.

4. Pursuers of the hue and cry may search suspected houses, and arrest all suspicious persons. 8 Geo. 2. c. 16.

Impressing. Both high and petty constables are to obey the commissioners in the act of impressing men who have no visible employ, in which they shall be paid all reasonable expences. 19 Geo. 3. c. 10.

Infants dropped. If any person exposes an infant in the street, and refuses to take it away, a constable may apprehend and detain such person, till he or she shall consent to take care of it. 2 Hawk. P. C. 77.

Innkeepers. A constable, on complaint, is to cause an innkeeper to be indicted and punished, for refusing to lodge a hawker, or to provide him victuals, &c. who offers to pay for the same. 1 Jac. 1. c. 9. Wood's Inst. 460, 461.

Juries. In Michaelmas sessions yearly, constables are to give in to the justices a list of the surnames, christian names, occupations and places of abode, of such of the inhabitants, between the age of 21 and 70, within their respective precincts, as are qualified to serve as jurors, on pain of forfeiting 5 l. and if they wilfully omit persons qualified, or insert wrong ones, they are liable to forfeit 20 s. 7 & 8 W. 3. c. 32. 3 Geo. 2. c. 25.

2. They must subscribe and attest their lists on oath, before

Before one or more justices, and deliver them to the high constable. 3 Geo. 2. c. 25. These lists are to be made from the rates of each parish.

3. On the coroner's warrant they must summons a jury to attend his business. 3 & 4 Ann.

Landlords. They are to assist landlords or other persons distraining for rent, through the whole process. 2 W. & M. c. 5. 8 Ann. 11 Geo. 2.

Land tax. They are also to give their assistance in collecting the land-tax, and take distresses for it, &c. when refused payment. See the Land-tax Acts.

Militia. They are to provide such carriages and men for the use of the militia as the act requires, on pain of forfeiting from 20 s. to 40 s. 2 Geo. 3.

2. By warrant from the lieutenantcy, constables are to commit persons to gaol, refusing to provide arms for horse and foot soldiers for the militia, if no distress can be taken. See the Militia Acts.

Oaths. Neither the high or petty constable can take any man's oath, that he is in fear of his life. Anderson Ch. J. Cro. E. 375. Pl. 25. Hill. 37 Eliz. See *Swearing*, below.

Orchard robbers. Robbers of orchards, &c. shall be whipped by the constable, when ordered by a justice. 43 Eliz. c. 7.

Papists. Constables are to complain to a justice of persons suspected of being papists. 7 Jac. 1. c. 6.

2. They shall present popish recusants within their liberties, &c. and certify to the sessions such popish recusant convicts, that is, such as have been convicted of popery, and not complying with the laws respecting them, who, within 20 days after their arrival at the place of their birth, give in their names to the parson of the parish, and neglecting to do so, they shall forfeit 20 s. 35 Eliz. c. 2. 7 Jac. 1. c. 6.

Plague. They may oblige persons infected with the plague to keep their houses, &c. 1 Jac. 1. c. 31.

Quartering soldiers, &c. The constable is to quarter soldiers in inns, livery stables, alehouses, and the houses of sellers of wine by retail, to be drank in their own houses, or places to them belonging, and all houses of persons selling brandy, strong water, cyder, or mead,

mead, by retail, to be drank in their own houses (distillers houses excepted). If he quarters soldiers on any other person, the owner may bring an action against him. Refusing to do this, constables forfeit from 10s. to 40s. If they quarter the wives, children, or servants of officers, or soldiers, on houses, without the owner's consent, they forfeit 20s. Receiving any reward to excuse quartering, they forfeit from 40s. to 5l. See the Mutiny Acts.

2. If any constable shall neglect his duty in billeting, for the space of two hours, provided sufficient notice hath been given him before the arrival of the forces, he shall forfeit from 40s. to 5l. *Ibid.*

3. Officers may exchange men or horses with others quartered in the same town, provided the numbers so exchanged are equal, and the constable shall billet them accordingly. *Ibid.*

4. Constables, if required, shall give in lists to the justices of the houses and persons obliged to quarter soldiers, with their names and signs, and the number of officers and soldiers billeted on them. 1 Geo. 1. c. 47. 7 Geo. 1. c. 6.

Riots. Constables, &c. shall suppress rioters, and imprison them and all other offenders against the peace. 17 R. 2. c. 8.

2. When three or more persons assemble, with an intent to do any unlawful act with force or violence, it is a riot. *Bro. Tit. Riot.* 4, 5 Lamb, 179, 181.

Smugglers. Constables are to assist the crown officers in collecting duties. On request made by the chief magistrates of any ports, they may enter any house in the day time on this duty; if resisted, they may break open doors; but this breaking must be within one month after the offence committed. 12 Car. 2.

2. They may take up any person lurking about the sea coasts, suspected of being concerned in running goods, and carry him before a justice, and if the person be convicted, the constable shall receive 20s. for every one he so convicts. 9 Geo. 2.

Soldiers on their march. Constables, with an order from a justice, are to provide carriages on the marching of soldiers, which orders they are immediately to comply.

ply with. They may prefs waggons for this purpose, and farmers are to be allowed 1 s. a mile for a waggon with five horses or six oxen, or four oxen and two horses; 9 d. a mile for a cart, and so on in proportion for the number of cattle employed. Constables neglecting this duty, forfeit from 20 s. to 40 s. to the poor. 2 Geo. 3.

2. If the constable is at a greater charge than what is allowed by act of parliament in providing the carriages on a march, he is to be reimbursed by the treasurer of the county, by order of the justices at the quarter-sessions. Ibid.

Note. No waggon is obliged to carry above thirty hundred weight. Ibid.

Street-walkers. Night-walkers of ill fame may be taken up by a constable, and carried before a justice. 5 Edw. 3. c. 14. 2 Inst. 52.

2. When a constable is once charged with the custody of a street-walker, if he suffers her to escape voluntarily, he is liable to be indicted. Bur. vol. 2. p. 864.

Tobacco. Constables, on information, are to destroy tobacco planted contrary to 22 & 23 Car. 2. c. 26. or forfeit 5 s. for every rood not destroyed. 5 Geo. 1. c. 11. f. 9.

Vagrants. The constable, assisted by the minister and one other of the parish, is to see (or do it himself) rogues and vagabonds, who shall be taken begging, stripped naked, from the middle upwards, and openly whipped till their body be bloody, and thence forthwith to be sent away, from constable to constable, the next streight way to the place of their birth; and if that cannot be known, to the place where they dwelt for one whole year before such punishment; and when they come there, if it cannot be discovered where they were born, or last dwelled as aforesaid, then they are by that constable to be conveyed to the house of correction or common gaol of the county, to be employed in work, or placed in some service, and so to continue for one year; or in case they be not able in body, that town is to keep them till they may be placed in some
alms-

alms-house within the same county. 39 Eliz. c. 4. Resolut. Judges, sect. 714. 2 Bulstr. Rep. fol. 258.

2. After such whipping, the constable is to give the vagrant a testimonial under his hand, and the minister's, of the day and place of his punishment, the place to which he is to be conveyed, and the time limited for his passage, which time, if by his own default he exceeds, he shall from time to time incur the like punishment, till he arrive at the place limited. The substance of the testimonial is to be registered by the minister, in a book kept for that purpose, on pain of 5 s. Dalt. Just. fol. 129.

3. If any constable neglects this duty he forfeits 40 s. and if the next constable will not receive the vagrant so passed, he forfeits 5 l. 39 Eliz. c. 4. Dalt. Just. c. 47. fol. 128. and Resol. Judges, sect. 13, 14.

4. Constables are to apprehend vagrants, and convey them with a justice's pass to their place of settlement, 13 & 14 Car. 2. c. 18. and for every rogue or vagabond they take up and is convicted, they shall have a reward of 10 s. 17 Geo. 2.

ADVICE TO CONSTABLES.

1. If you see any persons fighting or making a disturbance in the day or night, you should endeavour to part them and quiet such disturbance, and if you cannot, call on the persons present, in the king's name, to assist you, which they are bound to do, and take the parties fighting, or ringleaders, into custody, which when once done, you must not discharge them without a magistrate's authority. But be careful not to take any body into custody after the affray is over, unless you find any person dangerously wounded, and the injured person charges any one present, in which case you may detain him.

2. Never strike any person in the execution of your office, unless it be absolutely in your own defence.

3. When you are informed of a robbery, be certain before you apprehend the person charged with it, that a felony has been committed, and that the person charged is properly suspected. This is to be done by a careful enquiry;

enquiry; if you have any doubts, refer the parties to a magistrate; but as the law will punish constables by indictments and heavy fines, who refuse to pursue and apprehend felons, it is proper to be aware of this; and after you have apprehended him, take care he does not escape. To prevent this, trust him in the care of no one, but take him to a justice as soon as possible.

4. Carefully read the warrants delivered to you, and act exactly as they instruct you.

5. You are to obey the warrant of the sheriff, and, at public executions or punishments, take care to preserve the peace, and that the mob do not extend the punishment beyond the just sentence of the law.

6. The coroner's warrant is also to be attended to by you, in summoning his juries.

7. You are also to obey the high constable, in virtue of such warrants as he receives from the sessions, sheriff and justices.

8. When you present any offenders, agreeable to the precept you receive from the high constable; observe a proper form in distinguishing the christian and surnames of the offenders, their occupations and places of abode; if women, whether single, married, or widows; if you present bawdy or gaming-houses on your own knowledge, specify how long they have been kept; if on the report of others, you have only to say, they are reputed so.

9. Be respectful to magistrates, and not officious in complaints: be silent, and wait till you are asked the necessary questions, and then be explicit and impartial.

10. In executing search warrants, do it between sunrise and sun-set; acquaint the people civilly with the nature of your business, advise them to produce the things stolen, voluntarily, if they have them; saying, if they deny them, and the things are found, they will be liable to transportation for fourteen years. If refused or denied, be careful in your search, and not break any locks, unless places are refused to be opened; and as, if you find the things, you are to bring the party where found before the justice, it would be proper to have a person with you that can swear to the articles, that you may not give unnecessary trouble.

11. All goods found in execution of search-warrants, must be kept by you to produce on the trial. On this account, keep the articles in your own custody, not suffering them to be out of your sight after you have found them, till you have locked them up. If at the trial the prisoner be convicted, you are to return the goods to the prosecutor; if discharged, to the prisoner.

12. Before you break open doors to take felons, or assist the officers of the Revenue, on finding them fast, call out to the persons within, and demand entrance in the king's name. If the parties refuse to answer, or answering refuse admittance, you may use violence,

NUSANCE

own knowledge, specify how long they have been kept, &c. on the report of others you have only to say they are reputed to be such.

9. He is obliged to magistrates, and not officers in complaints: be silent, and wait till you are asked the necessary questions, and then be explicit and singular.

10. In executing a warrant, do it between sun-rise and sunset; say unto the people civilly, with the nature of your business, and bid them to produce the things desired, voluntarily. If they have them, deliver it to you; if not, bid them to produce them, if they have them; and the things are found, they will be liable to transportation for seven years. If not, bid or demand be carried in your hands, and not broken up, locked, unless places are found to be opened; and if you find the things you are to bring the party whose house before the justice, it would be proper to have a person with you that can swear to the articles, that you may not give unnecessary trouble.

NUSANCE.

Note.—It is meant only to speak of such Nusances here as are troublesome and offensive to the Inhabitants of a place in general, and what immediate remedies they have against them.

ALE-HOUSES.

1. **I**F any publican do suffer any person to continue drinking therein (except such as shall be invited by any traveller, and shall accompany him only during his necessary abode there, and except labouring and handicraftsmen in cities, towns corporate, and market-towns, upon the usual working-days, for one hour at dinner time, to take their diet in an ale-house, and except labourers and workmen, which for the following of their work, by day or by the great, shall, for the time of their continuance in work in the neighbourhood, lodge and victual in any public house, and except for any urgent and necessary occasions, to be allowed by two justices) he shall, on conviction thereof, before a magistrate, on the oath of one witness, forfeit 10 s. to the poor, and such ale-house keeper shall be disabled, for the space of three years, to keep any such ale-house. 1 Jac. c. 9, f. 2, 4. 1 Car. c. 4. 21 Jac. c. 7.

2. If an ale-house keeper shall be convicted of being drunk, on the oath of one witness, he shall be disabled to keep any such ale-house for three years. 7 Jac. c. 10. 1 Car. c. 4.

LEWDNESS.

3. All open lewdness, grossly scandalous, is punishable by fine, imprisonment, &c. upon indictment at common law. 1 Haw. 7.

4. A wife may be indicted together with her husband, and condemned to the pillory with him, for keeping a bawdy-house. 1 Haw. 2.

NOISES.

5. Making a great noise in the night with a speaking trumpet, is a nuisance indictable. Str. 704.

6. Building a smith's forge near a man's house, and making a noise with hammers, is also indictable. *Burn. Nuisance.*

7. Common scolds may be indicted. 1 Haw. 198.

OFFENSIVE SMELLS.

8. To constitute the offence, it is not necessary that the smell should be unwholesome; it is enough if it renders the enjoyment of life and property uncomfortable. Of course, a brew-house, tallow-chandlers, slaughter-house, glass-house, swine-yard, dye-house, tan-house, &c. are nuisances, and indictable, if erected near the house of a person complaining, provided the complainant is the oldest inhabitant. *Burr. Mansf. 333. 3 Inst. 231. 9 Rep. 54.*

OBSTRUCTIONS.

9. Any public exhibition, if it draws together a number of carriages, or a crowd of people that inconvenience a neighbourhood, is a nuisance. 1 Haw. 198.

10. A new gate or house erected in a highway, where none has been before, is a common nuisance, and may be pulled down. 1 Haw. 199. But the person destroying them cannot remove the materials. *Dalt. c. 50.*

11. Laying logs in the stream of a navigable river is also a common nuisance, and indictable. 1 Haw. P. O. 198, 199, 200.

12. A master is indictable for a nuisance done by his servant. *Ld. Raym. 264.*

See Highways, Dogs and Poor.

HIGHWAYS.

HIGHWAYS.

Extract of the Act relative to the Highways.

1. **O**N the 22d of September, annually, or if that day be Sunday, on the 23d, the constables, head-boroughs, tithing-men, church-wardens, surveyors of the highways, and householders, assessed to any public rates, shall assemble at eleven in the morning, and the major part of them shall make out a list of ten persons, inhabitants, who have each of them a real estate of ten pounds a year, or a personal estate of one hundred pounds in value, or who occupy lands of 30l. a year; and if such cannot be found, they shall insert the names of so many as are, and the deficiency shall be supplied from the most sufficient inhabitants of the place resident there, to serve the office of a surveyor. 13 Geo. 3. c. 78.

2. The constable, head-borough, or tithing-man, shall, within three days after such meeting, transmit a duplicate of such list to a neighbouring justice, and deliver the original to the justices, at their special sessions, to be held in the week after Michaelmas quarter-sessions, and give personal or written notice to the persons named therein, that they may attend the justices, and shew cause, if they have any, against their being appointed. *Ibid.*

3. From the said lists, the justices at their sessions shall appoint one, two, or more of such persons surveyors, if they shall think them qualified for the office; if not, one, two or more of the other substantial inhabitants or occupiers of lands, tenements, woods, tithes or hereditaments, within the place, or living within three miles thereof, and in the same county, proper to serve the office of surveyor, if such can be found. *Ibid.*

4. The constable, &c. is to notify the appointments to the persons so appointed, within three days, and those who accept the office shall be surveyor for the year ensuing. *Ibid.*

5. Persons

5. Persons whose names were in the list, refusing to serve after appointment, shall forfeit 5l. and persons, whose names were not in the list, refusing, and not shewing sufficient cause to one of the justices signing the appointment for such refusal, and within six days of having notice of the appointment, shall forfeit 50 s. Ibid.

6. If no such list be returned, or the person appointed refuse to serve, the justices are to appoint some other, and may fix a salary for such surveyor, to be paid out of the forfeitures, penalties, assessments and compositions arising under the act, not exceeding one-eighth part of the amount of an assessment of sixpence in the pound for the highways, within that place; and may require the constables, &c. to give them an account of what such an assessment has raised, or may raise. Constables, &c. neglecting this, or any part of their duty, as above, shall forfeit 40s. Ibid.

7. Where the justices appoint such surveyor with a salary, they are to appoint one substantial inhabitant as his assistant, who, on refusing to act, shall forfeit 50s. and the justices may appoint another, who, on refusal, shall forfeit the like sum; in which case they may then appoint another person with a salary. Ibid.

8. No person shall be obliged to serve either the office of surveyor or assistant, more than once in three years, without his consent. Ibid.

9. If the surveyor so appointed resides out of the parish, &c. he shall give a bond with sufficient surety, to account for the money which shall come to his hands. Ibid.

10. The assistant is, when requested, to assist the surveyor in calling in the statute-duty, in collecting the compositions and forfeitures, and in serving the notices, and in such other matters as shall reasonably be required of him by the surveyor in the execution of his office, and for every neglect of duty, he shall forfeit from 40 s. to 5 l. Ibid.

11. A surveyor may be appointed with a salary, if two parts out of three of those assembled agree in the choice of him, and in the salary to be paid him. Ibid.

12. No tree, bush, or shrub, shall be permitted to stand, or be planted within 15 feet of the centre of the highways,

Highways, (except for ornament or shelter to the house building, or court-yard of the owner) but they are to be cut down by the owner or occupier, upon ten days notice from the surveyor, on pain of forfeiting ten shillings. Ibid.

13. Possessors of lands adjoining to highways are to cut, prune, and plash their hedges, and to cut down or prune, and top the trees growing in or near the same, so that the highways may not be prejudiced by the shade thereof, and that the sun and wind may not be excluded. For every default after ten days notice, the surveyor is desired to complain to a justice, who, at a special sessions, may order them to be cut or pruned, as may best answer those purposes; and for every default after such order, and ten days notice of it, the offender shall forfeit two shillings for every tree so neglected to be cut or pruned; and the surveyor is required to cut and prune the same, and the offender shall pay the charge thereof. Ibid.

14. Occupiers of lands adjoining to highways shall make ditches, drains, or water-courses, sufficient for keeping dry, and conveying the water from the same; and shall, when necessary, scour, cleanse, and keep them open; and for every default, after ten days notice by the surveyor, they shall forfeit ten shillings. Ibid.

15. If any person shall lay stone, timber, or other things, or in scouring the ditches, shall permit the soil to remain in any highway, to obstruct the same, for five days after notice of the surveyor, he shall forfeit 10 s. Ibid.

16. If any stone, timber, or other matter, shall be laid in any highway, within 15 feet from the centre thereof, and shall not be removed within five days after notice given by the surveyor, or person aggrieved, the owner of the adjacent lands may, by order from a justice of peace, take the same to his own use. Ibid.

17. A person wilfully setting carriages, or instruments of husbandry in any highway, to obstruct or interrupt the passage, forfeits 10 s. Ibid.

18. Surveyors are to view all the highways, bridges, causeways, &c. and if they observe any nuisance, incroachments, obstructions, or annoyances therein, they are

are to give notice thereof to the offender; and if they are not removed within 20 days, the surveyor is to remove them, and may recover the expences from the offender, by warrant from a justice of peace. Ibid.

19. Hedges are to be cut between the last day of September and the last day of March. Timber trees growing in hedges are not to be fallen, except in hedges, where the highway is to be enlarged; and oak-trees growing in such hedges, or within the highway, are to be fallen in April, May, or June; and ash, elm, or other trees, in December, January, February, or March only. Ibid.

20. Where old ditches, gutters, or water-courses, are not sufficient for carrying off the water from the highways, the surveyor, by order of a justice, may make new ones, through any other lands, making and keeping in repair proper trunks and plats over the same, and making satisfaction for damages to the owner or occupier of the lands not being waste. Ibid.

21. Every cart-way leading to a market-town is to be 20 feet wide, and every horse-way or drift-way eight feet wide, at least, if the ground between the houses will admit of it. Ibid.

22. When highways are too narrow, they may be enlarged or widened, if the ground on the side thereof is convenient for that purpose; if not, they may be diverted and turned, after having been viewed and so ordered by two justices of the peace; but if the parties cannot agree in the satisfaction to be made for the land, it is to be determined by a jury, at the court of quarter-sessions. Ibid. See No. 63.

23. If the jury give a verdict for no more than was offered, the costs are to be borne by the person who refused such offer. Ibid.

24. Where there shall not be sufficient money in the hands of the surveyor, for making such purchase and satisfaction, the said justices shall order an equal assessment on the occupiers of lands, &c. within the place where such highway lies, and direct the money to be paid and applied for the purchasing of such lands, and making satisfaction for the damages occasioned by the enlarging or diverting the said highway. Ibid.

25. Where

25. Where new ways shall be made, the old ones shall be stopped up, and the soil thereof sold, subject to any right of way or passage, which there may be through the same; and also subject to the right which any person may have to the minerals under them. Ibid.

26. If it appears, upon the view of two justices, that a highway, bridleway, or footway, may be diverted, so as to make it nearer or more commodious to the public, and the owner of the land through which the said highway, &c. is to be made, shall consent thereto, such justices may divert and turn such ways, and cause the old ones to be stopped up, and the old highway or bridleway to be sold, as in No. 25. Ibid.

27. Where highways, &c. have been turned for twelve months, and new ways made nearer and more commodious to the public, and no prosecutions commenced for turning the same, such new ways shall be the public ways; and persons liable to the repair of the old highways shall be so to the new ones, unless by agreement to the contrary. Ibid.

28. No common land between the fences of an old highway shall be inclosed; and where the land between the fences, not being common land, exceeds 30 feet in breadth, on a medium, and does not extend to 50, satisfaction shall be made to the owner, for all above the breadth of 30 feet; if it exceeds 50 feet in breadth, or if the old road lies through an open field belonging to any particular person, the person entitled to such land shall enjoy the soil of such old highway, and pay the value of it to the surveyor, for the use of the highways. Ibid.

29. A footway, diverted through the land of the same person who owned the land where the old footway lay, is to be considered as an exchange only, and no satisfaction is to be made, unless the new footway be turned, the damage done by the old footway shall be estimated, and the amount thereof applied in making satisfaction for the land taken for the new footway. Ibid.

30. If the old highways (on making new ones) are found unnecessary, they may be stopped up, and sold for

for the benefit of other highways, as before directed. Ibid.

31. Surveyors shall complain of, and present at the quarter-sessions, all such highways, bridges, &c. out of repair, as particular persons are bound to keep in repair. Ibid.

32. Justices may order what roads shall first be repaired, and direction-posts to be erected; and if the surveyor neglects to do it in three months after such order, he shall forfeit 20 s. Ibid.

33. The surveyor may take refuse stones from quarries, dig gravel, sand, chalk-stone, clay, or other materials from waste lands, and may gather stones lying upon inclosed lands, without making satisfaction, except for any damage done in removing them; but he must have the owner's consent, or a licence from a justice. No stones thrown up from the sea are to be taken, being private property. Ibid.

34. If sufficient materials cannot be found upon the wastes, &c. as above, the surveyor may dig the same in the grounds of any one within the place where the highway lies, or (by a licence from two justices) within any place lying near the same, if materials cannot be found in the place, (provided such place be not a garden, yard, avenue to a house, lawn, park, paddock, or inclosed plantation) on making satisfaction for the same, and leaving sufficient for the highways in such parish, and for the owner of the land to repair any roads he is bound to keep in order. This to be determined by a justice. Ibid.

35. Or an assessment may be made by the justices, to buy materials, &c. provided it does not exceed sixpence in the pound in any one year. Ibid.

36. Pits made in digging materials, and those made before, shall be filled up, stopped down, or fenced off, or the surveyor shall forfeit 10 s. for every neglect, after six days notice; from 40 s. to 10 l. Ibid.

37. No materials to be removed from the parish, &c. where got, to any other parish, &c. except between the 1st of April, and the first of November, or in the time of hard frost. Ibid.

38. A

38. A person damaging or endangering any bridge, mill, building, dam, highway, ford, mine or tin-work, by digging materials, shall forfeit from 20 s. to 5 l.

Ibid.

39. Statute-duty to be performed by the inhabitants and occupiers of land, tenements, woods, tithes and hereditaments, for six days in every year, if necessary. Ibid.

40. Every person who keeps a waggon, cart, wain, plough or tumbril, is deemed to keep a team, draught or plough, and shall send it properly furnished with two able men, to the repair of the highways, in the parish or place where he resides, on the days required by the surveyor, which shall excuse him for lands, &c. there, to the value of fifty pounds a year. Ibid.

41. Every person and occupier shall also provide and send a team, with not less than three horses, or four oxen and one horse, or two horses and two oxen, in like manner, for every 50 l. a year which he shall occupy in the same parish, or in any other parish, &c. to be employed by the surveyor, in the parish, &c. where the land lies. Ibid.

42. Every person not keeping a team, but occupying lands, &c. under the yearly value of 50 l. in the parish, &c. where he resides, or in any other parish, &c. and every person keeping a team, and occupying lands, &c. under the yearly value of 50 l. in any other parish, &c. than that wherein he resides, shall, in lieu of such duty, pay one penny for each day's duty, for every 20 l. annual value of lands, &c. which he shall occupy in any parish, &c. above 50 l. and less than 100 l. a year, and so in proportion for what falls short of every further increase of 50 l. which sums are to be paid to the surveyor, for the use of the highways, at the time the compositions are to be paid. Ibid.

43. A person keeping a team, but not occupying lands, &c. where he resides, of 50 l. a year, is to send only one labourer. Ibid.

44. Every person not keeping a team, but keeping a cart with one or two horses, shall do duty with the same, and one labourer to attend it, or pay as above for

for the value of his lands, at the option of the surveyor. Ibid.

45. And every person not keeping a team, nor occupying lands, &c. of 50 l. a year, but keeping a coach, post-chaise, or other wheeled carriage, shall pay 4 s. for every horse he shall use therein, for every day's duty, or pay for his lands, at the option of the surveyor. Ibid.

46. And every man inhabiting in any parish, &c. under sixty years of age, not chargeable for lands of 4 l. a year, nor being a menial servant or apprentice, shall work or send a labourer each day. Ibid.

47. If teams are not wanted, the surveyor may call for three labourers for every team spared, or the party may pay 4 s. 6 d. in lieu of them. Ibid.

48. Teams and labourers to work eight hours each day, according to the direction of the surveyor, or pay the forfeiture for neglect of duty. Ibid.

49. The surveyor may order a stand-cart with one horse, which shall be considered as half a team, or a cart with two horses, which shall be considered as two thirds of a team, or he may order the team-duty to be performed by a waggon. Ibid.

50. The surveyor to give four days notice of the time and place for performing the duty, and the person neglecting to send a team forfeits 10 s. a cart and two horses 5 s. and a cart and one horse 3 s. and a labourer 1 s. 6 d. for each neglect.

51. The compositions to be paid for a team are not to exceed 6 s. nor to be less than 3 s. per day, to be settled by the justices at their sessions; or in default thereof 4 s. 6 d. and for every cart with two horses 3 s. with one horse 2 s. and for every inhabitant liable to do duty 4 d.

52. Justices, in the week after Michaelmas, when teams or labourers cannot be hired without paying great prices, may order the duty to be performed in kind, except those kept by persons occupying less than thirty pounds a year, and the duty by labourers also, on paying them the common wages, after deducting their composition. Ibid.

53. If any person keeps a team, and does not occupy

30l. a year where he resides, but maintains his horses partly in some adjacent parish, the justices, at a special sessions, may mitigate the composition as they think fit. Ibid.

54. Where a person keeps a draught or plough, and no carriage, he shall pay 1 s. for every horse, or pair of oxen, for every day's duty, or according to the value of his lands, &c. at the option of the surveyor. Ibid.

55. The inhabitants of every parish, &c. may, at a vestry-meeting, fix three months in the year, in which statute-duty shall not be called forth. Ibid.

56. If the parish-surveyor shall receive any composition-money for the turnpike-roads, he shall pay it to the treasurer or surveyor of such roads, within 20 days after he receives it, and it shall be laid out on that turnpike-road, and not elsewhere. Ibid.

57. Justices may order an additional assessment, if a former one is not sufficient, provided that the two assessments in one year do not exceed 9 d. in the pound. Ibid.

58. All fines shall be applied in repairs of the highways, as the justices shall direct; and, if levied on one or more inhabitants, the justices may cause a rate to be levied for reimbursing such inhabitants. Ibid.

59. The surveyor's duty is to collect the assessments, forfeitures and compositions, within the year, and all arrears, and to keep a written account of what he receives, and what he pays, which he shall produce at a vestry, fifteen days before his office expires; and afterwards before a justice of peace, who may admit them, or postpone them to the special sessions. He is to deliver a duplicate of his account, with the money in his hands, and all tools, &c. to his successor. Ibid.

60. Every surveyor is to pay to the justice's clerk for the appointment and charge 1 s. for the bond 6 d. for the account and oath 1 s. and a person receiving more forfeits 10 l. Ibid.

61. The surveyor is to contract for materials at a meeting, after public notice given; and if he has any share in any contract, or shall let out his team, or sell materials for the use of the roads, &c. without the li-

cence of a justice, he shall forfeit 10 l. and be incapable of being employed as surveyor with a salary.

62. The surveyor for every neglect of duty, for which no particular penalty is imposed, shall forfeit from 40 s. to 5 l.

63. If any person incroaches on the highways, by making any hedge, ditch, or other fence, within fifteen feet of the centre of it; or shall plow, harrow, or break up the soil of any land within that distance, where the breadth is formed or described with certainty, and does not exceed thirty feet, he shall forfeit 40 s. and the surveyor may cause such hedge or ditch, &c. to be taken down, or fitted up at the expence of the person who made it. Ibid.

64. The defendant in any indictment or presentment for not repairing highways, shall pay costs to the prosecutor, if the defence be frivolous; and the prosecutor shall pay the defendant costs, if the prosecution be vexatious. Ibid.

65. The expence of prosecutions, if agreed on at a vestry, is to be charged upon the inhabitants. Ibid.

66. Assessments, if not paid in ten days after demand, may be levied by distress, &c. by a justice's warrant, and in default of distress, the defaulter may be committed for three months. Ibid.

67. Persons resisting the execution of the act, and constables refusing to execute warrants, forfeit from 10 s. to 40 s. Ibid.

68. This act, as far as it extends to appointing surveyors; not to extend to Bristol, nor to the parishes of White Chapel or St. John, Wapping, London. Ibid.

DOMESTIC SERVANTS.

1. **W**HERE no agreement can be proved, respecting the wages of servants, by the 5th Eliz. c. 4. s. 15, & 20 G. 2. c. 19, justices may take upon them to ascertain the wages to be paid them, on any complaint made by a servant, and regulate them according to what such servant has had in a former place, or what is generally paid in the same neighbourhood to servants of a similar denomination (a). See No 3, below.

2. If any servant, workman or labourer, shall assault his master or mistress, or any other having charge over them, and be convicted on the oath of two witnesses, he shall be imprisoned for a year, or less, at the discretion of two magistrates; and if the offence shall require further punishment, they may inflict it, so it extend not to life or limb. 5 Eliz. c. 4, s. 21.

3. All complaints and disputes between masters or mistresses and servants in husbandry, shall be determined by one neighbouring justice, and he may make such order for the payment of wages, as to him shall seem reasonable, provided the sum in question exceed not 10 l. and in case of non-payment for 21 days, such justice may levy the same by distress. 20 Geo. 2. c. 19. s. 1. 31 Geo. 2. c. 11.

(a). 1. It is known that magistrates have jurisdiction only with respect to statute-wages, in husbandry and certain trades; but courts of law are indulgent in remedies for wages, and where there is no proof to the contrary, suppose that a justice's order could refer only to such servants, whose wages he had a right to rate. BURN'S JUSTICE, SERV.

2. If a person retain a servant generally, without expressing any time, the law shall construe it to be for one year. 2 Inst. 42.

3. If a servant be within age, his agreement with his master to his disadvantage shall not prejudice him. Dalt. c. 58.

4. If a married man and his wife do bind themselves to serve, they shall be compelled to serve according to their agreement. Dalt. c. 58.

5. If a woman who is a servant shall marry, yet she must serve out her time, and her husband cannot take her out of her master's service. Dalt. c. 58. Wood, b. 1. c. 6.

4. And by the above acts, such justice, on complaint, on oath, by any master or mistress, concerning any misdemeanour in his service, may determine the same, and punish the offender, by commitment to the house of correction, there to remain and be corrected, and held to hard labour, not exceeding one calender month, or otherwise by abating some part of his wages, or by discharging such servant from their service. S. 2.

5. So such justice may, on complaint on oath of any servant, against his master or mistress, concerning any misusage, refusal of necessary provision, cruelty, or other ill treatment, summon such master or mistress, and examine into the matter, and if the charge be made good, may discharge such servant from his service (b). Ibid.

6. Persons thinking themselves aggrieved, may appeal to the next sessions. Ibid.

7. If any labourer, or other person, shall contract with any master, for a certain term, and shall absent himself from his service, before his term be completed, or be guilty of any other misdemeanour, one justice, on complaint on oath by such master or his agent, may apprehend the servant, examine the master, and if the charge be made good against him, shall commit him to the house of correction, for any time not exceeding three months, nor less than one month (bb). 6 G. 3. c. 25.

(b). This alludes to servants hired for a time.

(bb) 1. If a servant shall quit his master's service, and the master find him, he cannot forcibly detain him, or compel him to return, but must complain to a magistrate, or he may have an action of covenant against his servant. Dalt. c. 121.

2. If any person employs him, after notice given that he is a hired servant, the master may bring an action against the employer. Blackst. Com.

3. If a servant hire himself at a month's wages or warning, and warning is given on either side, the servant cannot leave his place, nor the master put him away, a day before the expiration of the month, without the full month's wages being forfeited; if disputes arise, complaint must be made to a justice.

4. A servant may justify an assault in defence of his master, but not a master in defence of his servant, as the master may bring an action, for loss of his servant's service. 1 Salk. 407.

8. If any menial, or other servant, through negligence or carelessness, shall fire, or cause to be fired, any dwelling-house or out-house, and be convicted on the oath of one witness, he shall forfeit 100 l. to be distributed among the sufferers by such fire, or be committed to hard labour for 18 months. 6 Ann. c. 31. f. 3.

9. If any servant, to whom any goods shall be delivered (c) to be kept by his master or mistress, shall go away with the same, designing to steal them; or, being in their service, shall, without his or her assent, embezzle, or convert the same to his own uses, with like purpose to steal them, if the same be of 40s. value, he shall be guilty of felony (d), but this not

to

(c) 1. Unless the goods were delivered to him, it is not felony under this act; but he may be indicted for felony at common law, even though an apprentice, or under 18. As a butler for going away with plate, and a shepherd with sheep. 1 H. H. 667, 668.

2. If a man delivers to his servant the key of his room, and the servant steals his goods (above the value of 12 d.) it is felony only at common law, as the goods were not delivered. Dalt. c. 155.

3. If a man sends his servant on horseback with corn to market, and he goeth away with corn and horse, if the goods be of 40s. value, it is felony; but not if he return, though he wastefully consumed the goods. Dalt. c. 155.

4. If a master authorises his servant to receive money for him, and he goes away with it, with intent to steal it, it is not felony by this statute, as the money was not delivered to him by his master. 3 Inst. 105.

5. So likewise, if the master delivers goods to his servant, and he sells them, and goes away with the money, it is not felony, for the same reason as above. BURN. SERV.

6. So if the servant receives above 40s. of his master's rents, and runs away with it, it is not felony, as the money was not delivered to him to keep. Dalt. c. 155.

7. But if a master delivers to his servant 20 l. in silver, to get it changed into gold at the goldsmith's, or leather to make shoes, and he run away with the gold or shoes, it is felony. 1 H. H. 668.

(d) But within clergy. By 12 An. st. 1. c. 7. however, every person who shall steal goods to the value of 40s. out of any dwelling-house, although it be not broken open, shall be guilty of felony without benefit of clergy; but this not to extend to apprentices under 15 years of age. A servant letting in a thief at night, shewing him the side-board, and being thus privy to the theft, though he let the thief out, and did not go with him, was adjudged guilty of burglary. Str. 281.

to extend to any apprentice (*c* and *d*), or any person within the age of 18 years. 21 Hen. 8. c. 7.

On the SERVANT-TAX.

10. By the 25th Geo. 3. c. 43. It is enacted, that every person keeping one male-servant shall pay annually for him,

Keeping 2 men servants shall pay,	L. 1 5
3 or 4 ditto,	1 5 each.
5, 6 or 7,	1 10 each.
8, 9 and 10,	1 15 each.
11, and upwards,	2 0 each.
	3 0 each.

11. Every man, aged 21 and upwards, and a bachelor, shall pay an additional one pound five shillings for every man-servant he keeps. S. 3.

12. These duties are to extend to servants of the following descriptions, viz. Maitre d'hotel, house-steward, master of the horse, groom of the chamber, valet de chambre, butler, under butler, clerk of the kitchen, confectioner, cook, house-porter, footman, running-footman, coach-man, groom, postilion, stable-boy, helpers in stables, gardeners not being day-labourers, park-keeper, game-keeper, huntsman, whipper-in, waiters in taverns, coffee-houses, inns, ale-houses, or any other houses licenced to sell wine, beer, ale, or other liquors by retail (other than occasional waiters), or by whatsoever name or names, male-servants, really acting in any of the said capacities, shall be called. S. 4.

13. Every person keeping a woman-servant, shall pay annually for one 2 s. 6 d. for two, 5 s. each; for three or more, 10 s. each. Ibid.

14. A bachelor, in all cases, pays double these duties. Ibid.

16. Servants employed, *bona fide*, for the purposes of husbandry, farming, dairy, or manufacture, or of

(1.) The master is indictable for a nuisance done by his servant. 1d. Raym. 264. So is the servant likewise. 1 Haw. 3.

(2.) Masters are answerable for the misconduct of servants in their employ. Wood, b. 1. c. 6. 2 Salk. 441. Str. 505.

any trade by which the master or mistress earn a livelihood, excepted. S. 6.

16. Such persons as shall have living in their houses two or more lawful children or grand-children, under 14 years of age, shall be allowed one woman-servant, duty-free. Such as have four such children shall be allowed two women servants, and such as have six, three women servants. Thus he who has four children pays but 2 s. 6 d. for the third servant, if he keeps three; if has four servants, he pays 5 s. each for two. Ibid. f. 13.

17. Female servants, under the age of 14, or above 60, are not to be assessed (e). Ibid. f. 14. Parish certificates of the age to be produced. Ibid.

18. No duty is to be paid for any servant employed for the purposes of husbandry, manufactures or trade, or by and within the universities either in England or Scotland, or within the colleges of Westminster, Eaton or Winchester, or by any of the Royal Family or foreign ministers; or any of the royal hospitals of Christ's, St. Bartholomew's, Bridewell, St. Thomas's, Guy's, or the Foundling Hospital. S. 5.

19. Parish apprentices, imposed on masters or mistresses, to the number of two, shall be allowed, unless they are employed as *livery servants*, and in the capacities mentioned in Article 12. S. 8.

20. Coachmen, grooms, postilions or helpers, let out to hire by way of job, shall be paid for by those who employ them. Ibid. f. 7.

(e) As this is an annual tax, if a person keeps at any one time two servants, and enters those two, suppose on April 5, 1786, should one quit his service a month after, and he continues to keep but one only for the next eleven months, when he makes a fresh entry, it must be dated back to April 5, 1787; or if, after an entry is made, two servants are kept only the last week in one year, and the first week in the second, and one servant only for the remainder of the time, the commissioners will expect the master to pay two years duty for two servants. It is the same with respect to carriages. If a person, having made an entry, runs his chaise only for the last month or week in that year, and the first week or month in the next, and then lays it down, he must pay for two years, unless he can make it appear to the commissioners that his carriage was broken.

21. Every

21. Every officer of horse, under the rank and not receiving the pay of a field-officer, is to be allowed one man-servant, whether such servant is a private soldier in his regiment or not. S. 11.

22. Every officer, without distinction, in the land-service, of every description, including marines, who employs one soldier of the regiment or company to which he belongs as a servant, and every officer in the navy under the rank of a master and commander, in actual service, who employs one sailor as a servant, that is actually borne upon the books of the ship to which such officer belongs, are for such servants exempt from this duty. Ibid.

23. Disabled officers on half-pay are to be allowed one servant, on application to the commissioners, and proof given. Ibid. S. 12.

24. The window and house-tax collectors are also to collect these duties, and the duties to be paid quarterly. Ibid.

25. Assessors shall give, or leave notice in writing, yearly, at the dwelling-houses of all masters and mistresses within their district, requiring them to prepare or produce, within fourteen days from such notice, separate lists, in writing, of all their men and women-servants, their christian and surnames, and the capacity in which they are employed, such list to contain the greatest number of servants, male and female, retained by such master or mistress, at any one time in the year, ending on the 5th of April preceding such notice, to be signed by the master or mistress, and to be delivered to the assessor, who is to call for it; and if such list be refused, or neglected to be delivered, then the assessors are to proceed to make out from the information they can get, an assessment of their own, from which there shall be no appeal, unless the person so assessed shall prove that they were not at home from the time of the notice, to the day for the delivery of the lists to the assessors, or shall assign some other substantial cause satisfactory to the commissioners. S. 26.

26. All masters or mistresses must accompany their lists with a declaration, whether they mean to pay for any,

any, and how many, servants in any other place or parish, and to specify in what place or places. S. 28.

27. If assessors discover any deficiency in the lists delivered to them, they may surcharge or add to those lists. S. 29.

28. Persons refusing or neglecting to furnish the lists and declarations required above, forfeit 10 l. S. 32.

29. All servants omitted in the said lists, and added on the surcharge, are to be rated double, one-half of which shall go to the assessor or surveyor so surcharging them. S. 33.

30. Every person, having a lodger in his house, keeping a servant or servants, must, on a week's notice, deliver lists similar to those required in clauses 25 and 26, with the addition of the Christian and surname of the lodger, as well as of his servants, under the penalty of 10 l. S. 34.

31. Appeals must be made to the commissioners, and persons dissatisfied with their decisions may resort to a judge of the court of King's-Bench, as in clause 27 of the act on windows; which see. S. 35, 39.

ASSAULT.

ASSAULT.

1. **A**SSAULTING in the street or highway, with intent to spoil people's cloaths, and so spoiling them, is felony and transportation. 6 Geo. c. 23. f. 11.

2. A person may justify an assault in defence of his person, his wife, his master, parent or child, within age; and even a *wounding* in defence of his person, but not of his possessions. 3 Salk. 46.

3. Also, if an officer, with a lawful warrant, lay hands on another to arrest him; or if a parent, in a reasonable manner, chastises his child, a master his apprentice, a schoolmaster his scholar, a gaoler his prisoner, or if a husband confine his wife, or one confine a friend who is mad, and bind and beat him in a manner as is proper in such circumstances; or if a man force a sword from one who offers to kill another; or if a man gently lay his hand on another, and thereby stay him from inciting a dog against a third person; or if one lays hold of a man to prevent his fighting; or if he beats one (without wounding him or throwing at him a dangerous weapon) who endeavours violently to dispossess him of his property, and will not desist by gentle usage; or if a church-warden or overseer turns out a noisy boy from church or church-yard, and such like, the offence is justifiable. 1 Haw. 130.

4. A person may justify an assault of another, who menaces him or assaults him, and attempts to beat him from his lawful water-course or highway. Put. 42.

5. Likewise, if a person comes into my house, and will not go out, I may justify laying hold of him, and turning him out. Nels. Assault.

6. And where a man in his own defence beats another who first assaults him, he may take advantage thereof, both upon an indictment and upon an action; but with this difference, that on an indictment he may give it in evidence, upon the plea of not guilty; but not on action, he must plead it specially. 1 Haw. 134.

7. Where

7. Where a man is assaulted, and hath no witnesses to prove the same, the party assaulted may bring an information in the Crown-office, in which case, the offender, being indicted at the suit of the king, the party grieved may be admitted on evidence. 4 and 5 of W. and M. c. 18.

8. For assaults, the wrong doer is subject both to an action at the suit of the party wherein he shall render damages; and also to an indictment at the suit of the king, wherein he shall be fined according to the heinousness of the offence. 1 Haw. 134.

9. No words whatever can amount to an assault; but any injury done to the person of a man, in an angry, insolent manner, be it ever so small, is actionable:— for example, spitting in his face, jostling him, treading on his toes, or any way touching him in anger. Ibid. Even offering to strike, or threatening with any staff or weapon, is an assault in law. Lamb. lib. 1.

10. But to lay hands gently on another, not in anger, is no assault. Bract. 9. E. 4.

11. Where a man is threatened to be beaten, or can swear that he goes in danger of his life, he may, before a justice, bind his adversary over to keep the peace. A wife may demand this security against her husband, and the husband against the wife; so that if the wife cannot find sureties, she shall be committed, and of course the husband gets rid of a shrew. 1 Haw. 126. Crom. 118.

12. A peer cannot be bound over; the safest way to proceed against him is by complaint to the court of Chancery, or King's-Bench. 1 Haw. 127.

13. If one, who fears that the surety of peace will be demanded against him, finds sureties before any justice of the same county, either before or after a warrant is issued against him, he may have a *supersedeas* from such justice; which shall discharge him from arrest from any other justice, at the suit of the same party for whose security he has given such surety. 1 Haw. 129.

H O R S E S.

1. **T**HE sale or exchange in any open fair or market of any stolen horse, shall not alter the property, unless the same shall be in the time of the said fair or market openly shewn for one hour, between ten in the morning and sun-set, in that open place of the fair or market wherein horses commonly stand to be sold. 2 & 3 P. & M. c. 7. 31 Eliz. c. 12.

2. Nor unless all the parties to the bargain shall come together, and bring the horse to the open place appointed for the toll-taker, or for the book-keeper where no toll is due. Ibid.

3. Nor unless such toll-taker, book-keeper, or chief officer of the fair or market, shall take upon him perfect knowledge of the seller, and of his true Christian and surname and place of abode, and shall enter the same in a book kept for that purpose, or else that the seller shall bring to the toll-taker, or other officer aforesaid, one credible person that shall testify that he knoweth the seller and his true name, surname, profession and dwelling-place, and there enter the same, and also the Christian name, surname, profession and dwelling-place of him that so voucheth his knowledge. Ibid.

4. Nor unless he also cause to be entered the very true prices, and also the colour and one special mark at least. Ibid.

5. The buyer to pay the toll, if any, if not, then to give one penny for the entry, and the person entering the same shall give the buyer, on his paying twopence more, a note in writing of all the contents of such entry, subscribed with his hand. Ibid.

6. Every person offending in any of the above premises shall forfeit 5 l. half to the king and half to the suer before the justices in sessions, and the sale shall be void. Ibid.

7. And though all these points shall be observed in the sale of a horse, yet if it appears afterwards that the horse was stolen, such sale in six months shall not take away

away the owner's property, if his claim be made in thsoe six months where the horse shall be found, before a justice, and proof be made in forty days next ensuing, by two witnesses, that the property of such horse was in the party claiming, and was stolen from him within six months next before such claim; but the party from whom the same was stolen may at all times after, notwithstanding such sale, take again the said horse on payment, or readiness to offer to the party who hath possession, so much as he shall swear before such magistrate that he paid for the same. Ibid.

8. If any person shall in the night-time maliciously kill or destroy any horse, he shall be guilty of felony, and may be transported by three justices in session for seven years. 22 & 23 Car. 2. c. 7.

9. And if any person in the night-time shall maliciously wound or hurt any horses, he shall forfeit to the party grieved treble damage, to be recovered by action at law, or before three justices. Ibid.

10. No person shall put in any forest, chace, moor, heath, common, or waste, (where mares or fillies are used to be kept,) any stoned horse above the age of two years, not being fifteen hands high, within the shires of Norfolk, Suffolk, Cambridge, Buckingham, Huntingdon, Essex, Kent, South Hampshire, North Wiltshire, Oxford, Berkshire, Worcester, Gloucester, Somerset, North Wales, South Wales, Bedford, Warwick, Northampton, Yorkshire, Cheshire, Staffordshire, Lancashire, Salop, Leicester, Hereford, and Lincoln; nor under fourteen hands high in any other county except Cornwall, (21 Jac. c. 28. s. 12.) on pain of forfeiting the same. 32 Hen. 8. c. 13. s. 2, 10.

11. But this shall not extend to the marshes in the counties of Cambridge, Huntingdon, Suffolk, Northampton, Lincoln and Norfolk, provided that the horses be of thirteen hands high. 8 Eliz. c. 8. s. 3.

12. Also nothing herein shall extend to any stoned horse that shall happen once in a year to break out of any pasture into such common, so that he do not stay there above four days after notice given at the dwelling house of the owner, or other publication thereof, on a Sunday or other festival, in the parish-church, where

the owner or possessor of such horse dwelleth. 32 Hen. 8. c. 13. f. 5.

13. And any person may seize any such horse so being under size, in manner following: He shall go to the keeper of such forest, or (out of such forest) to the constable of the next town, and require him to go with him to bring such horse to the next pound, and there to be measured by such officer, in the presence of three other honest men, to be appointed by the officer; and if he shall be found contrary to what is above expressed, such person may take him for his own use. Ibid. f. 3.

14. And if such keeper or constable, or other of the three persons, shall refuse to do as is aforesaid, he shall forfeit 40s. half to the king and half to the suer. Ibid. f. 4.

15. And all such commons, and other places, shall, within fifteen days after Michaelmas, yearly, be driven by the owners and keepers, or constables, respectively, on pain of 40 s. half to the king, and half to the suer; and they may also drive the same at any other time. Ibid. f. 5.

16. And if in any of the said drifts, there shall be found any mare, filly, foal or gelding, that shall then be thought not able, nor like to grow able to bear foals of reasonable stature, or do profitable labours, by the discretion of the drivers, or of the more number of them, they may kill and bury them. Ibid. f. 7.

17. Persons having lands of inheritance in parks, &c. are to keep two mares apt to bear foals, 13 hands high, for the increase of the breed of horses, on pain of 40 s. for every month they are wanting, and not suffer them to be leaped by stoned horses under 14 hands, on a certain penalty. 27 Hen. 8. c. 6.

18. For every horse, mare or gelding, used for the purpose of riding or drawing any carriage for which a duty of excise is paid, or payable, shall be paid annually 10 s. 24 Geo. 3. c. 31.

19. For every horse, mare or gelding, entered to start for any plate, prize, or sum of money, shall be paid a duty of two guineas yearly, the same to be paid
previous

previous to the entering the said horse, &c. for any race, on pain of 20 l. Ibid.

20. For every licence to sell horses as a horse-dealer, within the cities of London and Westminster, the bills of mortality, or the Borough of Southwark, shall be paid annually 10 l. in any other places 5 l. only, and the like penalty if such dealer has not over his gate-way, or part of his house, the words, *Licensed Dealer in Horses*. Ibid.

21. Horses belonging to non-commissioned officers and soldiers of the cavalry, also horses belonging to licenced dealers, kept for sale, and not for hire; and all horses let to hire by post-masters for travelling post, are exempted from this duty. Ibid.

22. Upon an appeal to the acting commissioners, from the assessment made for any riding-horse, and on proof on oath, that such horse for which any person occupying a farm of 150 l. a year to be let, shall have been so assessed, as being only used for the purpose of riding to and from market or church, or other place of public worship, and to no other place, or for any other purpose of riding, the said commissioners may make an abatement of the whole duty. 25 Geo. 3. c. 47.

23. Assessors to give notice, in writing, to persons keeping horses, to produce in 14 days after such notice, lists of the number kept by them, on pain of forfeiting 10 l. and in case such lists are not delivered, the assessor shall, from the best information he can obtain, make an assessment on such person so refusing, which shall be final, unless the person assessed shall prove a sufficient excuse before the commissioners; and in case the lists delivered to the assessors shall be deficient, they may surcharge the same, and the persons giving in such defective lists shall pay double duty for all deficient, one-half of which the assessor or surveyor shall have for surcharging the same. 24 Geo. 3. c. 31.

24. Householders shall deliver lists of lodgers who keep horses, containing the names of such lodgers, on pain of forfeiting 10 l. Ibid.

25. Persons over-rated may appeal to the commissioners,

sioners, but they must then deliver in their list upon oath. Ibid.

26. Surveyor, assessor or inspector, making a false surcharge, shall forfeit such penalties as are directed to be inflicted by the acts relative to the duties on houses and windows. Ibid.

27. Penalties not exceeding 20 l. may be recovered before two justices, and may be levied by distress; above 20 l. shall be recovered by action at law.

28. All actions or informations shall be brought within one year after the offence committed; and defendant may plead the general issue, and recover, if injured, treble costs. Ibid.

POST-HORSES, as far as it relates to the Traveller.

29. The person letting horses for travelling post, shall take for the king three-halfpence every mile each horse is to travel, for which he shall deliver a ticket to the traveller, specifying the number of horses employed, and the miles they are to go, signed by the master of the house; if hired for a day, the words *for a day*, and the amount of the duty paid, to be on the ticket, which is 1 s. 9 d. for each horse. Ibid. f. 4, 12.

30. Travellers are to deliver such tickets at the first turnpike they shall pass through, or pay 1 s. 9 d. for each horse; if the horse and carriage be hired for the day, the turnpike-keeper shall give the traveller a ticket, in exchange, with the words *received day ticket* on it, which ticket shall be shewn at every gate the traveller passes through that day, or he shall pay 1 s. 9 d. for each horse, which the toll-gatherer shall have for his own use. Ibid. f. 4, 20.

31. If the horses, &c. be hired for two or more days, no duty is paid for them; but the inn-keeper, &c. must deliver the traveller a certificate, with the words *hired for two or more days* on it, and signed with his name, the day of the month, and the place of his abode, and the person travelling in such carriage, or the driver, shall deliver such certificate at the first turnpike, for which the gate-keeper shall give a check-ticket in return, with the words on it, *certificate delivered.*

vered. This ticket to be shewn at every turnpike-gate through which the carriage passes, or the traveller shall pay 1 s. 9 d. for each horse, which the gate-keeper shall have for himself. Penalty on persons issuing false or erroneous certificates to evade the duty, 20 l. Ibid. f. 24.

32. No traveller shall pay for more miles than specified on the ticket. Filling up tickets falsely, subjects the filler to a penalty of 10 l. Ibid. f. 17.

33. Horses hired for less time than two days, are deemed hired for the day. Ibid. f. 25.

34. No person, at whose house any traveller shall change horses, shall let them otherwise than by the mile or stage, on pain of 10 l. Ibid.

35. Where inn-keepers, &c. cannot furnish horses to travellers, and they go on with the same horses, they shall nevertheless give the traveller a fresh ticket, properly filled up, and receive the duty thereon. Ibid. f. 33.

36. All horses hired by the mile or stage, shall be deemed hired to travel post. Ibid. f. 42.

37. Post-masters shall furnish horses to travel post, and shall charge 3d. a mile (a) for each horse riding post, and 4d. a mile for the person riding as guide; and shall not charge for any bundle of goods not exceeding eighty pounds weight, to be laid on the horse ridden by the guide, and shall not be obliged to carry above that weight. 9 Ann. c. 10. f. 14.

38. If any post-master doth not, or cannot furnish persons riding post with horses, in half an hour after demand, such persons may furnish themselves elsewhere, and the post-master shall forfeit 5 l. half to the king and half to him that shall sue, with full costs. Ibid. f. 20, 21, 28.

(a) But this was before the duty: the addition of three half-pence will make four pence halfpenny for one, and five pence halfpenny for the other.

CARRIAGES.

1. **F**OR every coach, chariot, chaise, &c. with four wheels, or by whatever name such carriages shall be called, kept by any person for his own use, or to be let out for hire, (except hackney coaches) shall be paid the yearly sum of 7 l. and for every chaise, chair, gig, whiskey, &c. or by whatever name they are known, or called, having two or three wheels, to be drawn by one or more horses, that shall be kept by any person for his own use, or to be let out for hire, the yearly sum of 3 l. 10 s.

2. Assessors to give notice, &c. as in the horse act. See horses, 23, 24, 25, 26, 27, 28. 25 Geo. 3. c. 47.

3. Every person who shall keep any waggon, wain, cart, or other such carriage, with three or four wheels, (except such as are already charged with a duty under the management of the excise) shall pay annually 4 s. for each, if with two wheels, 2 s. for each. 23 Geo. 3. c. 66. f. 1.

4. Provided that no person shall be obliged to pay the said yearly sum of 4 s. for more than one such carriage employed in agriculture only; nor for more than three such carriages employed for any other purpose, if kept by him for his own use only, and not used for the carriage of goods for hire, or be let out for hire. Ibid. f. 2.

5. Provided also, that no person shall be obliged to pay the said yearly sum of 2 s. for any cart or other carriage with two wheels, employed in agriculture only, and not employed in parks or pleasure grounds, or used for the carriage of goods for hire, or let out for hire; or if drawn by one horse only, and employed only for the carriage of peat or turf for fuel and not let out for hire. Ibid. f. 3, 4.

6. Waggons or other carriages pressed for conveying arms, ammunition, or other baggage, under the act for preventing mutiny and desertion, though the owner thereof shall be paid for such carriage, this shall not be deemed a working for hire.

7. Persons shall give notice within twenty days of beginning

beginning to use such waggons or carts, to the proper officer in the neighbourhood, and pay down the duties yearly, within twenty days of the expiration of the year, on pain of forfeiting 5l. half to the king, and half to the suer. Ibid. f. 8, 9, 16.

8. Prosecutions to be determined by a neighbouring justice, but appeals may be made to the quarter sessions. Ibid. f. 12.

9. Where the duties are omitted to be paid, if the parties so omitting pay the duty and arrears before an information is lodged, they shall be exempted from the penalty. Ibid. f. 18.

10. No waggon with nine inch wheels to be drawn with more than eight horses, nor cart with more than five; no waggon with six inch wheels rolling a surface of nine inches, to be drawn with more than seven horses, or rolling six inches only, with more than six horses, nor cart with six inch wheels, to be drawn with more than four horses; no waggon with wheels of less breadth than six inches to be drawn with more than five horses, nor cart with more than three, on pain of the owner's, forfeiting 5 l. and the driver 10 s. for every horse to be so drawn above those numbers; but carriages rolling sixteen inches may be drawn with any number of horses or other cattle. 13 Geo. 3. c. 78. See No. 24, below, and the following.

11. Informations for drawing with more horses than allowed, are to be laid within three days, and actions commenced within a month of the offence, and neither to be carried on, unless notice be given by the informer to the driver, of his intention to complain on the day the offence was committed; if the offender lives remote and cannot conveniently be summoned, the fine is to be recovered by action only. Ibid.

12. Justices may licence an increase of horses up steep hills, or on any roads not turnpikes, and may stop proceedings for forfeitures, when an additional number shall appear necessary, from ice and deep snow. Ibid.

13. The limitation of the number of horses and wheels of carriages, not to extend to carriages with
one

one stone, cable rope, piece of metal or timber, nor to ammunition or artillery for his Majesty's use. Ibid.

14. Two oxen or horned cattle to be considered as one horse. Ibid.

15. The owner of every waggon and cart shall paint the words *common stage waggon* or *cart* thereon, with the christian, surname and place of abode of the owner, on pain of forfeiting from 20 s. to 5 l.

16. If the driver of any cart, carriage, dray or waggon, shall ride upon the carriage in any street or highway, not having some person on foot, or on horseback to guide the same; or shall by negligence or wilful misbehaviour cause any hurt or damage to any person or carriage, or interrupt the same, or be at so great a distance from his carriage, that he cannot have the government thereof; or if the driver of any empty carriage shall refuse to make way for any coach, chariot, chaise, or loaded waggon, cart or carriage, or shall drive any carriage not having the names and description so painted as aforesaid, or shall refuse to discover his owner's name, he shall forfeit not exceeding 10 s. and if the owner 20 s. and every driver so offending may be apprehended without a warrant, and if he refuse to tell his name, he may be committed to the house of correction for three months. Ibid.

Of Turnpike Roads, as far as the People in general are concerned in them.

17. Every waggon or four-wheeled carriage having the fellies or rollers of the wheels sixteen inches broad may carry eight ton weight in summer, and seven in winter; every waggon or wain having the axle-trees of such different lengths, that the distance from wheel to wheel, of the nearest pair of the wheels be not more than four feet two inches, to be measured at the ground, and that the distance from wheel to wheel of the other pair be such, that the fore and hind wheels shall roll one single surface or path of sixteen inches wide at the least, on each side of the carriage, and having the fellies thereof nine inches broad from side to side at bottom six tons ten hundred in summer, and six tons in winter; every

every waggon or four wheeled carriage with wheels nine inches broad, six tons in summer, and five tons ten hundred in winter; every cart having the fellies of the same dimensions, three tons in summer, and two tons fifteen hundred in winter; every waggon with six-inch wheels, four tons five hundred in summer, and three tons fifteen hundred in winter; every waggon so constructed as to roll a surface of eleven inches with the wheels, five tons ten hundred in summer, and five tons in winter; every cart with wheels of the same dimensions, two tons twelve hundred in summer, and two tons seven hundred in winter; every waggon with wheels less than six inches, three tons ten hundred in summer, and three tons in winter; every cart with wheels of the same dimensions, one ton ten hundred in summer, and one ton seven hundred in winter; and it shall be deemed summer from May 1, to October 31, both inclusive, and winter the rest of the year; all waggons or carts carrying more than the above weights shall pay to the trustees, for the use of the roads, 20s. for every additional 112lb. which additional toll shall be levied on any person liable thereto, on his goods, who shall refuse to pay the same, in such manner as other tolls, payable at the same turnpike-gate, are by law to be levied and recovered. 13 Geo. 3. c. 84.

18. The toll-gate keeper suffering such carriages to pass where there is a weighing engine, and overloaded, without paying the additional toll, shall forfeit 5l. Ibid.

19. Any trustee, surveyor, &c. suspecting any connivance or neglect, may oblige any such carriage passed through the gate to return and be weighed, if they have not passed above three hundred yards, paying the driver 1s. which shall be returned him, if, on weighing, the carriage has not more weight than allowed; the driver refusing to return shall forfeit 40s. and any person present may drive such carriage back to be weighed. Ibid.

20. But these regulations of weight shall not extend to any waggons, carts, or carriages, employed only in husbandry, or carrying only manure for lands, hay, straw, fodder, or corn unthreshed; but where lime or manure is permitted to pass toll-free, the carriage shall be

be weighed, and shall pay the additional toll in No. 1, for overweight, as before directed. Ibid.

21. No composition for tolls shall be allowed to be made, unless for carriages with wheels six inches wide, or more. Ibid.

22. If any person shall unload a carriage before it come to any weighing-engine, or load afterwards in order to avoid the additional toll of 20s. per 112 lb. or if any person shall so unload, in order to carry considerable quantities of goods through any turnpike-gate in one and the same day, and pay less toll than would have been paid, if such goods had not been unloaded, such person, so offending, shall forfeit 5 l. to be levied by distress, and each driver, not being the owner of such carriage, so offending, shall be committed to the house of correction for one month. Ibid.

23. If the owner or driver of any such carriage, travelling on any turnpike-road where a toll-gate or weighing-engine is erected, shall turn out into any other road, to avoid being weighed, or pay the toll, and shall afterwards proceed with such carriage into or on the same turnpike-road, every such owner shall forfeit from 20 s. to 5 l. and the driver, if not the owner, from 10 s. to 50 s. Ibid.

24. No waggon or four-wheeled carriage, with nine-inch wheels, shall pass on any turnpike-road with more than eight horses, nor any cart or two-wheeled carriage with nine-inch wheels, with more than five horses; and the horses in such carriages shall draw in pairs (except an odd horse, where the number shall not exceed four); and no waggon or four-wheeled carriage, with six-inch wheels, with more than six horses; or cart or two-wheeled carriage with six-inch wheels, more than four horses; no waggon, &c. with less than six-inch wheels, shall be drawn with more than four horses; no cart, &c. with less than six-inch wheels, with more than three horses, on pain of the driver's (if the owner) forfeiting 5 l. if not the owner, 20 s. to him that shall sue. Ibid.

25. All carriages, moving on rollers of the breadth of sixteen inches on each side, with flat surfaces, may be drawn with any number of horses or cattle. Ibid.

26. A

26. A waggon or carriage may be drawn with any number of horses, on any turnpike-road, where there is a weighing-engine, provided such carriage shall be weighed at such engine, and the weigher shall give the driver a ticket certifying that such carriage was weighed, and its weight with the loading. Ibid.

27. If any person shall take off any horse or beast of draught from a waggon or carriage, or shall alter the distance of the wheels, before it shall come to any of the turnpikes, with an intent to avoid any toll, &c. for drawing with a greater number of horses or beasts of draught than allowed, he shall forfeit 5 l. Ibid.

28. No prosecution shall be commenced before a justice, by way of information for a forfeiture incurred for drawing with more horses than allowed, unless such information be laid within three days of the offence, and no action shall be commenced unless within one calendar month of the offence; and neither such information or action shall be laid, unless notice be given to the driver, by the informer, on the day of the offence, of his intention to complain; and if it shall appear to the justice, on complaint, that the offender lies too remote to be summoned before him, he shall leave the informer to his action at law. Ibid.

29. If it shall appear, on the oaths of credible witnesses, that any carriage could not, by reason of deep snow or ice, be drawn with the respective weights, by the allowed number of horses, then all proceedings for the recovery of any penalty shall stop. Ibid.

30. Any waggon or cart, with less than nine-inch wheels, may pass on any turnpike-road, if drawn by horses in pairs (except such carriages with six-inch wheels as are allowed to be drawn otherwise by order of trustees within their districts). Ibid.

31. If any person shall, on a turnpike-road, drive any waggon or carriage, not being marked, as in No. 15, or drawn by more than the allowed number of horses, any person may take such person before a justice, and on conviction he shall forfeit from 10 s. to 5 l. Ibid.

32. The trustees may demand for every waggon, wain, cart or carriage, with wheels of less than six inches, double the usual tolls. Ibid.

33. Carts

33. Carts and carriages, employed in carrying corn or grain in straw, hay, straw, fodder, dung and lime, for the improvement of land, manure, or implements of husbandry only, are exempt from, and shall pay no toll. Ibid.

34. The tire on the wheels of every waggon, &c. shall lie flat, or the owners are not entitled to any exemptions or composition. Ibid. And the nails shall be sunk so as not to rise above the surface, or the offender shall forfeit 40 s. and the driver for every offence 20 s. Ibid.

35. If any person shall take the benefit of the exemptions, in any fraudulent manner, he shall forfeit from 40 s. to 5 l. Ibid.

36. Waggon, carts, or carriages, with wheels rolling sixteen inches on each side, with flat surfaces, shall pay one-half only of the usual tolls paid for wheels of less breadth. Ibid.

37. Nothing contained in this act shall extend to the carriage of ammunition or artillery for his Majesty's service, or to any cart drawn by one horse only, or two oxen, or any carriage with nine-inch wheels, laden with one block of stone, one piece of marble, one cable rope, one piece of metal, or one piece of timber. Ibid.

38. Every gate-keeper, authorized to collect tolls, who shall take a greater or less toll than is allowed, shall forfeit 40 s. Ibid.

39. No person shall be liable to pay any toll, or be subject to any penalty for a carriage, horse or beast, which shall only cross a turnpike-road, and not pass above one hundred yards thereon, except over some bridge erected at a considerable expence, by the trustees of such turnpike-road. Ibid.

40. If the surveyor of a turnpike shall knowingly suffer any post, heap of stones, or earth, to lie for four days within ten feet of the middle of such road, so as to obstruct the passage (other than posts, blocks, stones, or banks of earth fixed or raised for securing horse or foot-roads, or passages for water, and also direction-posts and stones) such surveyor shall forfeit 40 s. Ibid.

41. If

41. If any person shall encroach, by making any hedge, ditch or fence, or any turnpike-road, within thirty feet from the middle thereof; or shall plough, harrow, or break up the soil of any land or ground; or in ploughing or harrowing the adjacent lands, shall turn his plough or harrow in or upon any land or ground, within the distance of fifteen feet from the centre of such road, he shall forfeit 40 s. to the informer; and the trustees, or any five of them, may cause such hedge, ditch or fence, to be taken down or filled up at the expence of the person to whom it shall belong; and any justice may levy as well the expences of taking down such hedges, as the penalty imposed, by distress and sale. Ibid.

42. Damaging the parapets or battlements of bridges, destroying or defacing mile-stones, direction-posts, &c. in turnpike-roads, forfeits from 10 s. to 5 l. and if the offender does not pay it, he shall be committed to hard labour from seven days to one month, and be whipped. Ibid.

43. If the driver of any cart, car, dray or waggon, shall ride upon any carriage in a street or highway, not having some person on foot or horseback to guide the same, (such carriages excepted as are conducted by some person holding the reins of the horses drawing the same); or if the driver of such carriage shall, by negligence or wilful misbehaviour, cause any hurt or damage to any person or carriage, in such street or highway, or shall quit the highway, and go on the other side of the hedge or fence inclosing the same, or wilfully be at such distance, or in such a situation, whilst it shall be passing on the highway, that he cannot have the government of his horses, &c. or shall wilfully or negligently obstruct the free passage of any other carriage; or if the driver of any empty or unloaded waggon, cart or carriage, shall refuse to make way for any coach, chariot, chaise, loaded waggon, cart, or loaded carriage; or if any person shall drive any such coach, post-chaise, or carriage, let for hire, or waggon, wain or cart, not having the owner's name, as required, painted thereon, or shall refuse to discover the Christian and surname of the owners, every such offender,

shall forfeit, not exceeding 10 s. (or 20 s. if the driver of the said carriage be the owner); in default of payment, the offender shall be committed to the house of correction, for a time not exceeding one month, unless such forfeiture be sooner paid: and any person may apprehend such driver, without a warrant, and deliver him to a constable, to be conveyed before a magistrate; and if such driver shall refuse to tell his name, the justice may commit him for a time not exceeding three months, and may proceed against him for the penalty, nevertheless. Ibid.

44. Pulling down a turnpike-gate, or any part belonging to it, is transportation for seven years, or three years imprisonment. Ibid.

45. No toll shall be paid for carriages employed solely in carrying materials for repairing any public highway. Ibid.

46. No surveyor shall gather stones from the common fields, or inclosed lands of any person, without his consent, or the licence of a justice. Ibid.

47. A table of the tolls and weights allowed to each carriage, is to be fixed up at every toll-gate. Ibid.

48. Two oxen or neat cattle shall be considered as one horse. Ibid.

49. Persons opposing any collector of the tolls in the execution of his office, or passing through any gate without paying; or obstructing any person in measuring or gauging the wheels, or receiving any goods distrained by virtue of their act; or if any constable, headborough, or tithing-man, shall refuse to execute any justice's warrant, in this business, he shall forfeit from 40 s. to 10 l. or be committed for a time not exceeding three months, unless the penalty be sooner paid. Ibid.

50. The penalties and costs to be levied by distress and sale, and go half to the informer and half to the use of the turnpike-road; and in default of distress, the offender shall be committed for a term not exceeding three months, unless the penalty be sooner paid. Ibid.

51. Penalties under 40 s. shall be recovered before a justice; if more, by information or action of debt in any court of record; and the plaintiff recovering shall have

have full costs; but the prosecutor must give the offending party ten day's notice, before the commencement of such action; and it must be commenced within one calendar month of the offence. Ibid.

52. Persons aggrieved by a justice may appeal to the quarter-sessions. Ibid.

Q:

GENERAL

GENERAL POST.

1. **A**LL persons about the post-office shall take an oath not to embezzle or delay any letters, nor to open any, except by an express warrant from one of the secretaries of state for that purpose, or except in such cases where the parties to whom they are addressed refuse payment for the same, or except such letters are returned for want of true directions, or when the party to whom the same is directed cannot be found.
9 Ann. c. 10. s. 41.

2. Foreign letters suspected of containing prohibited goods, &c. may be opened, and if any goods are found therein, they are to be destroyed, if no such goods are found, a magistrate is to enclose the letters in a cover with a proper attestation. 25 Geo. 3.

3. The rates for the carriage of letters shall be as follows :

For every single letter not exceeding one stage from the office where the letter is put in - - - 1 d.

For a double letter - - - 2 d.

For a treble one - - - 3 d.

For an ounce weight - - - 4 d.

6 Geo. 3. c. 25. s. 5.

Above one post stage and not exceeding two.

For a single letter - - - 2 d.

For a double - - - 4 d.

For a treble - - - 6 d.

For an ounce weight - - - 8 d.

Ibid.

Above two post stages and not exceeding eighty miles from the General Post-office.

For a single letter - - - 3 d.

For a double - - - 6 d.

For an ounce weight, and so in proportion - - - 1 s.

9 Ann. c. 10. s. 6.

Above.

Above eighty miles.

For a single letter	- - - -	4 d.
For a double	- - - -	8 d.
For an ounce weight and so in proportion	1 s. 4 d.	

Ibid.

By the 25 of Geo. 3. an addition of one penny for a single letter is added to each former postage, so that for one post, a single letter pays 2 d. for two posts, 3 d. for three posts, 4 d. and an additional 4 d. for every ounce weight.

Above one hundred and fifty miles a single letter pays an addition to the former rates of	-	2 d.
For a double	- - - -	4 d.
For a treble	- - - -	6 d.
For an ounce weight	- - - -	8 d.

25 Geo. 3.

The like rates shall be paid also in Scotland, but no letter (not passing through London) to or from Glasgow or the intermediate places by the way of Carlisle, shall pay a higher rate of postage than if the same had passed through Edinburgh, to or from Glasgow. Ibid.

And no letter or packet passing to and from Edinburgh, or any intermediate places in England and Scotland north of London, shall pay more than 7 d. in the whole, for a single letter, and so in proportion. 25 Geo. 3.

No letter under one ounce to be charged higher than as a treble letter. Ibid.

In like manner there are different rates appointed by the several acts, to and from foreign parts according to the distance and difficulty of conveyance; and all masters of vessels bringing letters from abroad, shall deliver the same (except in the case of quarantine) at the post-office where they break bulk, for which the post-master shall receive 1 d. extra for each letter. 5 Geo. 3. c. 25. f. 3, 4.

4. Bills of exchange written on the same piece of paper with a letter, and several letters to several persons written on the same piece of paper, shall pay as so many distinct letters. 26 Geo. c. 21. f. 51.

5. Writs and other proceedings at law, inclosed or written on the same piece of paper with a letter, shall pay as so many distinct letters. 26 Geo. 2. c. 13. f. 6.

6. But merchants accounts not exceeding one sheet, bills of exchange, invoices, bills of lading (sent or brought over sea, 6 Geo. c. 21. f. 52.) shall be allowed without rate in the price of the letters. 9 Ann. c. 10. f. 13.

7. But patterns or samples of goods, or pieces of any thing, though not paper, inclosed in a letter or affixed thereto, if under an ounce weight, shall pay as a double letter. 26 Geo. 2. c. 13. f. 7.

8. None but the post-master shall carry letters on pain of 5 l. for every offence, and 100 l. a week besides, half to the king and half (with full costs) to him that shall sue in any court of record. 9 Ann. c. 10. f. 17, 19.

9. Except letters carried *gratis* by carriers and ship-masters with goods, or instruments out of any court, letters sent by friends in their journey, or by a special messenger. f. 2. and except in the two universities. f. 32.

10. No letters or packets shall be exempted from postage, except such as shall be sent to the king, and such as, not exceeding the weight of two ounces, shall be sent during the sitting of parliament, or within forty days before or after any summons or prorogation, which shall be signed on the outside thereof by any member, and by whom the whole superscription shall be written, and also the name of the post town from which the same is intended to be sent, and the day, month, and year when the same shall be put into the post-office, (the day of the month to be in words at length); or directed to any member at the place where he shall actually be at the time of the delivery thereof, or at his usual place of residence in London, or at the lobby of the House of Parliament of which he is a member; or to the offices of the Treasury, Admiralty, War-office, General Post-office, Secretaries of State, Paymaster-general of the Forces, Clerk of the Parliaments, Clerk of the House of Commons; or upon his Majesty's

Majesty's service (indorsed by the proper officer).

4 Geo. 3. c. 24. f. 1, 4. 5 Geo. 3. c. 25. f. 26. 25 Geo. 3.

11. Counterfeiting the superscription of any letter to evade the postage, is transportation for seven years. 25 Geo. 3.

12. Printed votes or proceedings in Parliament, or printed newspapers sent without covers, or in covers open at the ends, signed on the outside by any Member of Parliament, or directed to a Member of any place, whereof he shall have given notice to the Postmaster-general, shall be exempted from postage in England. 4 Geo. 3. c. 24. f. 5. and shall pass to and from Great Britain and Ireland, at the rate of one penny only for each printed vote, proceedings in Parliament, or newspaper. 25 Geo. 3.

13. The Postmaster-general may authorise certain persons to send such votes, proceedings, and newspapers, at the above rates. Ibid.

14. If any person entrusted to take in letters and receive postage thereof, should embezzle the money, burn, or destroy the letters, or advance the rates and not duly account for such advanced rates, he shall be guilty of felony. 5 Geo. 3. c. 25. f. 19.

15. All sums not exceeding 5 l. due for postage, may be recovered before justices of the peace in the same manner as small tithes. 9 Ann. c. 10. f. 30.

HOUSES.

HOUSES.

1. **F**OR every dwelling-house inhabited, rented at 5l. to 20l. a year, the occupier must pay 6d. in the pound. 18 Geo. 3. c. 26. 19 Geo. 3. c. 59.

2. For 20l. and upwards, to any sum under 40l. 9d. in the pound. Ibid.

3. All at 40l. and upwards, 1s. in the pound. Ibid.

4. The offices, yards, gardens, coach-houses, brew-houses, wood-houses, wash-houses, &c. provided they all stand within the compass of an acre belonging to the dwelling-house, must be valued with the dwelling-house, and shall be charged with the same duties. Ibid.

5. Shops and warehouses, if attached to the dwelling-houses, shall also be liable to be reckoned in with the rents, except the warehouses of wharfingers. Ibid.

6. But no warehouse that is a distinct building shall be liable. Ibid.

7. No house shall be deemed inhabited, where only one person is left in charge of it. Ibid.

8. Where houses are let out in tenements, the landlords shall pay the duty. Ibid.

9. Halls and offices, that pay other taxes, are liable to this. Ibid.

10. Penalties for refusing or neglect, to be sued for in the courts of Westminster; and the prosecutor shall have full costs, if he recovers. Ibid.

SHOPS.

S H O P S.

1. **E**VERY occupier of a house, part of which shall be used as a shop publicly kept open for carrying on trade, or selling any goods by retail; and every building or place used as a shop only, shall pay a yearly duty, as under:—

L.	L.	s.	d. in the pound.
5 and under	10	0	4
10 ———	15	0	8
15 ———	20	1	0
20 ———	25	1	3
25 ———	30	1	9
30 and upwards,		2	0

26 Geo. 3.

2. To be paid by the occupier only, notwithstanding any agreement with the landlord to the contrary. Ibid. f. 5.

3. The rent of the house to be ascertained by the assessment of the house-tax of 19 Geo. 3. c. 59. Ibid. f. 6.

4. No warehouse for lodging goods distinct from the public shop, or adjoining to it, if used only as a wholesale shop, shall be charged with the duty. Ibid. f. 7.

5. Nor shall bakers or venders of flour, meal, bran, or rubbles, be liable to this duty. Ibid. f. 8.

6. Where houses are divided into different apartments amongst several occupiers, the same shall be assessed as one house, and the duty paid by the landlord. Ibid. f. 9.

7. The duties shall be assessed, levied and collected, in such manner, and with such allowances, and under such forfeitures, and according to such rules as are prescribed for assessing, collecting, and levying the window-tax. Ibid. f. 10. See *Windows*.

8. Assessors are to estimate the rent of such houses, and may examine the parish rate-books for that purpose; and persons refusing them shall forfeit 40 s. Ibid. f. 20, 28.

9. Houses

9. Houses not to be assessed at any less value yearly than as they stand rated to other public taxes. Ibid. f. 29.

10. Occupiers not to be charged to the poor's rates or highway duty, for any rates imposed by this act, but such rates to be continued as before. Ibid. f. 30.

11. Payment of any rates in this act shall not entitle any person to a legal settlement in any place. Ibid. f. 31.

12. Persons overcharged may appeal to the commissioners, and from them to any justice of the King's-bench in England and Wales, or a judge of the court of Session in Scotland. Ibid. f. 32, 35.

13. Penalties not exceeding 20 l. to be recovered before a justice; upwards of that sum in a court of law. Ibid. f. 36, 37.

14. Persons aggrieved by a justice may appeal to the quarter-sessions. Ibid. f. 38.

15. Persons summoned by a justice to attend as a witness, and not attending, forfeit 40 s. Ibid.

16. All prosecutions to be commenced within one year of the offence; and persons sued for any thing done in virtue of their office may plead the general issue, and if acquitted shall have treble costs. Ibid. f. 42.

WINDOWS.

W I N D O W S.

1. **C**OMMISSIONERS of the land-tax shall be commissioners for the duties on houses and windows. 20 Geo. 2. c. 2. f. 6.

2. Commissioners shall appoint assessors and collectors. Ibid. c. 3. f. 6.

3. No person in any city, borough, or town corporate, shall be compelled to be an assessor, or collector, out of the limits thereof. Ibid. f. 18.

4. Every assessor before he acts shall take the oaths required by 1 W. c. 18. if Quakers, subscribe the declaration of fidelity there prescribed. Ibid. c. 2. f. 6.

5. Assessors refusing to take the oaths, or they and the collectors their offices, shall forfeit 5 l. Ibid. c. 42. f. 2. by distress and sale. 20 Geo. 2. c. 3.

6. For every dwelling house inhabited, shall be paid yearly 3 s. 6 Geo. 3. c. 38. f. 2.

7. And for every window or light in every dwelling house inhabited, an additional yearly sum as follows. Ibid.

				s.	d.	
7 windows and no more	-			0	2	each.
8	-	-	-	0	6	
9	-	-	-	0	8	
10	-	-	-	0	10	
11	-	-	-	1	0	
12	-	-	-	1	2	
13	-	-	-	1	4	
14, 15, 16, 17, 18, 19	-	-	-	1	6	
20	-	-	-	1	7	
21	-	-	-	1	8	
22	-	-	-	1	9	
23	-	-	-	1	10	
24	-	-	-	1	11	
25 and upwards	-	-	-	2	0	

8. And every kitchen, scullery, buttery, pantry, larder, wash-house, landry, bake-house, brew-house, and lodging room, belonging to or occupied with any dwelling-house,

ing-house, whether joined to it or not, shall be deemed part thereof, and the windows therein charged accordingly. 21 Geo. 2. c. 10. f. 2.

9. And sky-lights, and windows or lights in stair-cases, garrets, cellars, passages, and in all other parts of dwelling-houses *, to what use soever applied, shall be charged. f. 2.

10. And where several windows are fixed in one frame, if the partitions or division between them is of the breadth of twelve inches, the window on each side of the partition shall be deemed a distinct window †. 20 Geo. 2. c. 3. f. 38.

11. And all windows in frames which shall give light into more rooms than one, shall be charged as so many separate windows, as there are rooms enlightened thereby. Ibid.

12. And no windows or lights shall be deemed to be stopped up, unless it be done effectually with stone or brick, or plaister upon lath, or upon any other materials commonly used to plaister on, or with the same kind of materials whereof the outside of the house doth chiefly consist. 21 Geo. 2. c. 10. f. 11.

13. And if any occupier shall open any windows after the assessments are settled, and warrants for collecting signed, without notice in writing to the surveyor, he shall forfeit 20s. 20 Geo. 2. c. 3. f. 39. by distress and sale. f. 28. half of which fine shall go to the informer. 21 Geo. 2. c. 10. f. 15.

14. Where a house shall be inhabited by two or more persons, or families, it shall pay, as if it was inhabited by one person or family only. 20 Geo. 2. c. 3. f. 31. See No. 48, below.

15. Where any dwelling-house is let in different apartments to several persons, and the landlord of such house pays other taxes and parish rates for the same, such landlord shall be deemed the occupier of such

* Glass doors are supposed to come under this denomination, though they are not generally charged.

† No pane or piece of glass put in between two windows, merely to evade this clause and lessen the distance of separation, will effect it.

dwelling-house, and be charged with the duties for the same, as an entire house. S. 35.

16. And the rates shall be charged only upon the inhabitants or occupiers, and not on the landlord who let or demised the same. S. 5.

17. Parents and guardians of infants, on default of payment by such infants, shall be liable, and may be proceeded against as other persons making default. S. 15.

18. Each distinct chamber in a college or hall, in the universities, shall pay as if it were an entire house paying to church and poor. S. 32.

19. Every edifice in the inns of court or chancery, being severally in the occupation of any person, shall pay for every window or light, but shall not pay the three shilling duty on houses. 20 Geo. c. 3. f. 33. 21 G. 2. c. 10. f. 18, 19. See No. 48, below.

20. Such dwelling-houses only, where the occupier, by reason of poverty only, is exempted from the usual taxes to church and poor, shall be exempted from the duties; and that only in such cases where the dwelling-houses so occupied are cottages, not containing above nine windows in the whole. 20 G. 2. c. 3. f. 29.

21. But every house, whereof the keeping only is committed or left to a person or servant, who pays not to church and poor, shall pay as if inhabited by the occupier or tenant. S. 33.

22. And if any person shall wilfully obstruct or molest any assessor in the execution of his duty, he shall forfeit five pounds, to be levied as the rates and duties. 21 G. 2. c. 10. f. 14.

23. All appeals shall be heard before three or more commissioners, the particular days for which the collectors shall have notice of. S. 12. And shall give notice in the parish-church. 20 G. 2. c. 3. f. 12.

24. Surveyors appointed to examine assessments, may with constables pass through any house, or go into any court-yard or backside thereunto belonging, twice a year, to view the windows, and persons obstructing them in their duty shall forfeit five pounds, to be levied as the rates and duties. S. 30, 22, 21. G. 2. c. 10. f. 14.

25. If the surveyor shall find the windows under-rated, he shall new-rate them by way of surcharge, giving the occupier a written notice of the same. 20 G. 2. c. 3. f. 37. 21 G. 2. c. 10. f. 6.

26. Every person intending to appeal, shall give the surveyor or assessor ten days notice in writing of the same. 21 G. 2. c. 10. f. 8.

27. If either party be dissatisfied with the determination of the commissioners, in an appeal, the commissioners shall state the case in writing, and deliver it to the dissatisfied party, who shall transmit the same to one of the judges, and his answer shall be final, but the commissioners determination shall hold good, till the judge's answer be received. S. 9, 10.

28. The collectors shall give receipts gratis for the money they collect, which shall be a full discharge. 20 G. 2. c. 3. f. 7.

29. If any person shall refuse to pay the collector, on demand, he may distrain such person's goods, and shall keep the distress four days, at the owner's cost; and if the money be not paid in those four days, then the distress shall be appraised by two inhabitants, and there sold by the officer; the overplus (if any) over and above the charges of taking and keeping the distress, to be immediately restored to the owner. S. 11.

30. Where any refusal or resistance is made, it shall be lawful, by warrant of three commissioners, with a constable, to break open any house in the day-time. S. 11.

31. And if sufficient distress cannot be found, three commissioners may commit any person refusing or neglecting to pay for twenty days after demand, to the common goal, till payment be made. S. 11.

32. Arrears may be levied as the rates and duties. 21 G. 2. c. 10. f. 17.

33. If an occupier removes without paying his rates, it may be levied by an authority of the commissioners, at the place where he is so removed. 20 Geo. 2. c. 3. f. 41.

34. Collectors shall pay the money received in twenty days after receipt, to the receiver-general, or his deputy, provided it be within ten miles of the collector's home,

home, and they shall have three-pence in the pound for collecting. S. 7, 11, 24.

35. Arrears, owing to the failure of a collector, shall by authority of three commissioners be re-assessed on the parish to which he belonged. S. 21.

36. Surveyor guilty of unfair practices in the execution of his office, shall forfeit one hundred pounds, and his office. 20 G. c. 3. s. 10.

37. Assessors guilty of concealment or favour in assessing, shall forfeit not exceeding five pounds, nor under forty shillings. S. 6.

38. Collectors acting fraudulently shall forfeit twenty pounds. S. 36. By distress. S. 28*.

39. Generally, if any assessor, collector, or other person, appointed by the commissioners, shall wilfully neglect, or refuse to perform his duty, three commissioners may fine him from five to twenty pounds, to be levied by distress. S. 21.

40. Penalties, for which no other way of levying is prescribed, shall be levied by warrant of three commissioners, by distress, rendering the overplus, after deducting reasonable charges for distraining. S. 28.

41. Persons sued for any thing done in the execution of their office, may plead the general issue, and have treble costs. 20 G. 2. c. 3. s. 66. 22 G. 2. c. 10. s. 20.

42. In addition to the duties in No. 7, the following are to be paid yearly by every occupier of a house, in lieu of the duty on tea taken off.

	s.	d.	
Every house having under 7 windows,	3		per ann.
Every house having	7	6	
	8	9	
	9	10	6
	10	13	
	11	15	6
	12	18	
	13	1	1
	14	1	5

* Two assessors were once adjudged to stand in the pillory for fraudulent practices. 6 Mod. 306.

After this, the rest of the windows, to the number of 50, shall pay 5 s. a window.

Then for every house, having 50 windows, 6l. 10s.

After this, 2 s. 6 d. for each window, all above 50 to 100.

From 100 to 109,	-	-	-	12
109 to 120,	-	-	-	13
120 to 130,	-	-	-	14
130 to 140,	-	-	-	15
140 to 150,	-	-	-	16
150 to 160,	-	-	-	17
160 to 170,	-	-	-	18
170 to 180,	-	-	-	19
180 upwards,	-	-	-	20

24 Geo. 3. c. 38.

43. Persons not complying with this act are punishable as in the other window act. See No. 13, 22, 24, 29, 30, 33, 36, and the rest above. Ibid.

44. Persons occupying three or more houses to pay only for those two which contain the greatest number of windows. Ibid.

45. Where houses are let in different tenements, the landlord shall be deemed the occupier. Ibid.

46. Such poor persons as are exempted from church and poor-rates shall not pay this duty.

47. Dwelling-rooms in offices, chargeable to other taxes or parish-rates, to be subject to these duties. Ibid.

48. Apartments in inns of court are also subject, and are to pay 1 s. for every window, exclusive of this new duty. Ibid.

49. Warehouses are exempted from the duty; also charity-schools and houses provided for the poor; also hospitals (except apartments for officers). Ibid.

50. Parents and guardians to pay for infants. Ibid.

51. No house is deemed an inhabited house, except the same shall be inhabited by the owner, or his servant, or by a tenant renting the same. Ibid.

52. Two or three, or more windows, separated by a partition of less than twelve inches, to be charged only as one window. Ibid.

53. Where

53. Where any number of windows are separated by a glass door or fan, or both, by any kind of partition measuring twelve inches or less, or any separation whatever, each window, glass-door or fan, or both, shall be deemed as separate windows, and shall be charged as such.

54. Persons over-rated may appeal to the commissioners, and from them to one of the judges of the King's-Bench, and in Scotland to a judge of the court of session.

HATS.

1. **E**VERY retail dealer in hats shall have the words *Dealer in Hats* written over his shop or door, on pain of 40s. and if living in Westminster, London, the Borough, or within the bills of mortality, shall pay annually for a licence two pounds. 24 Geo. 3. c. 51. In other parts of the kingdom five shillings.

2. Every hat of 4 s. value, or under, shall pay a duty of - - - - - 8d.
Above 4 s. and not exceeding 7 s. 6d.
Above 7 s. and not exceeding 12 s. 1 s. od.
Above 12 s. 2 s.

3. No hats shall be sold without a licence, on pain of forfeiting 50 l.

4. Stamp-tickets shall be affixed to each hat, on the inside of the crown, and the buyer (as well as the seller) purchasing a hat without a ticket, forfeits 10L.

G L O V E S.

1. **A**LL persons in Great Britain vending gloves or mittens retail, made of silk, leather, linen, or any other materials, must take out a licence annually, subject to a stamp-duty of 1 s.

2. For every pair of gloves or mittens, made of what they will, sold above the price of 4 d. and not exceeding 10 d. shall be paid a duty of - - - 1 d.

All above 10 d. and not exceeding 1 s. 4 d. a duty of 2 d.

All above 1 s. 4 d. a duty of - - - 3 d.

25 Geo. 3. c. 55. f. 1.

2. The words *Dealer in Gloves* shall be painted conspicuously over the shop-door or window, where such goods are sold, on pain of 5 l. for every pair so sold. Ibid. f. 5.

3. Persons writing up *Dealer in Gloves*, without taking out a licence, forfeits 40 l. Ibid. f. 6.

4. Any person selling less than twelve dozen of pairs of either, shall be deemed a retailer. Ibid. f. 7.

5. Tickets expressing the several duties to be placed in the inside of the right-hand glove of each pair; and persons selling gloves or mittens, or receiving them in exchange with a stamp of less value, or without one, shall pay 20 l. and have no licence in future. One licensed dealer may sell to another, however, without a stamp. Ibid. f. 8, 9, 10.

6. It is felony to counterfeit stamps. Ibid. f. 15.

7. Removing the stamps from one pair of gloves, which have been sold, to another pair, which have not been sold, with a fraudulent intent, or using the same ticket twice, forfeits 20 l. Ibid. f. 11.

8. Buying or selling any ticket that has been used before forfeits 20 l. Ibid. f. 12.

9. Buyer or seller may inform against each other, and the informer shall be indemnified. Ibid. f. 13.

10. Any justice may determine pecuniary penalties, and compel payment, or commit the offender for three months, unless the money is sooner paid. Ibid.

11. One

11. One half the penalty goes to the informer, if sued for within six months; if not, the whole goes to the king. Ibid. f. 17, 19.

12. All the penalties of this act shall extend to all foreign leather cut into the form of gloves or mittens, and which shall not be applied to other purposes. Ibid. f. 25.

AUCTIONS.

1. **A** Duty of threepence in the pound shall be paid for all goods sold by auction, under the following description, viz. Any interest in reversion, or possession in any freehold, copyhold, or leasehold lands, tenements, houses, or hereditaments; and of any annuities or sums of money charged thereon; and of any utensils in husbandry and farming stock, ships and vessels, and of any revisionary interests in the public funds; also plate and jewels. 17 G. 3. c. 30. 19 G. 3. c. 56.

2. A duty of sixpence in the pound shall be paid on all goods of the following description, viz. Fixtures, furniture, pictures, books, horses, carriages, and all other goods and chattels whatsoever, except such as are hereafter exempted. Ibid.

3. The auctioneer is also to pay three five per cents. upon the above duties, or 3 s. in the pound upon the amount of the duties, and in that proportion for any part of a pound. Ibid.

4. The above duties are a charge upon the auctioneer (not the purchaser).

5. These duties not to extend to goods or estates sold by order, or under decree of the court of Chancery or Exchequer, or commissioners of Customs, Excise, Board of Ordnance, Great Sessions or Exchequer in Wales or Scotland, East-India Company, Navy or Victualling-Office; goods distrained for rent or tithes, or sales on account of lords or ladies of any manor, for granting copyhold or customary messuages, lands, &c.

&c. for lives or years, or under sheriff's authority, for the benefit of creditors, nor the effects of bankrupts, sold by assignees, or goods imported by way of merchandize, from any British colony or plantation in America, provided it is the manufacture or growth of that colony, and really sold for the benefit of the original importer, to whom they were consigned, if the sale is within twelve months after their arrival here; nor goods wrecked or stranded, if sold for the benefit of the insurers or proprietors; or goods damaged by fire, if sold for the benefit of the insurer. Corn, hay, and grass, dung, live or dead stock, or any kind of produce which is sold on the estate where it grows, are also exempt, if sold by the owner of such estate. The unmanufactured produce of mines is likewise exempt, if sold by the proprietor of the mine. Ibid.

RECEIPTS.

R E C E I P T S.

1. **E**VERY piece of paper, vellum or parchment, on which any receipt or other discharge given upon the payment of money, amounting to two pounds, and under twenty pounds, shall be written or printed, shall be stamped with a two-penny stamp: if for twenty pounds or upwards, on a four-penny stamp. 23 G. 3. c. 49, f. 3.

2. All receipts in which the sum mentioned therein shall be expressed to be in full, or as a satisfaction of all demands, shall be written on a four-penny stamp. Ibid. f. 11.

3. Receipts for money paid into the bank of England, or the house of any banker, or any receipt given for money received on any dividend, payable from the public funds, or any on the back of any bill of exchange, or promissory-note; on any bank-note, or bank post-bill; or any letter acknowledging the safe arrival of any bills or remittances, or any receipt indorsed or contained in the body of any deed, bond, mortgage, or other obligatory instrument, already stamped, or any release or acquittance by deed, or receipt given by the treasurer of the Navy, for money received by him for the service of the Navy, or the receipt of any agent for money on account of the pay of the army or Ordnance, or receipt given by any officer, seaman or soldier, or their representative, for any wages, pay, or pension due to them from the Navy, Army, or Ordnance; or any receipt given upon any Navy, Victualing, or Ordnance bill issued before the 1st of September, 1783, shall not be subject to this duty; nor shall receipts given on the back of any foreign bill of exchange. Ibid. f. 47.

4. The whole sum for which any receipt shall be given shall be, *bona fide*, inserted in such receipt; and all persons giving or accepting any receipt in which a less sum shall be expressed therein, than the sum actually received, with an intent fraudulently to evade these duties, or who shall separate or divide the sum actually paid

paid or received into divers receipts, with intent to evade the duties, or who shall be guilty of or concerned in any fraudulent contrivance or device whatsoever, with a design to defraud his Majesty, every such person shall forfeit twenty pounds. Ibid. f. 11.

5. The duty to be paid by the person requiring a receipt, except such receipts shall be for money paid for any salary, pension, or debt payable from the king, in which case, the duty shall be paid by the giver of the receipt. Ibid. f. 12.

6. Unstamped receipts for sums under two pounds, though the words *in full of all demands*, be inserted, shall be valid, but not as an acknowledgment of all debts and demands being discharged. Ibid. f. 15.

7. Receipts on a two-penny stamp, for two pounds, and under twenty pounds, (though the words *full of all demands* be inserted) shall be valid for the sum expressed therein, but shall not be a discharge in full. Ibid. f. 16.

8. Counterfeiting or uttering false stamps, is death. Ibid. f. 20.

9. Penalties to be divided between the king and the suer in any of the courts of Westminster, and the suer shall have full costs.

10. Any person who shall will or sign, or cause to be written or signed, any receipt not stamped, where it ought to be stamped, shall forfeit five pounds before any neighbouring justice. 24 Geo. 3. c. 17.

11. A receipt for a legacy or share of personal estate, not exceeding twenty pounds, shall be on a five shilling stamp; if exceeding twenty pounds, and under one hundred pounds, on a ten shilling stamp; if one hundred pounds, on a forty shilling stamp; and on an additional twenty shillings stamp for every further hundred pounds. 20 Geo. 3. c. 17.

12. Wives, children, and grand children, shall pay but half the duties in No. 11. nor shall they pay any part of the twenty shillings for every additional hundred pounds. Ibid.

BILLS of EXCHANGE or PROMISSORY NOTES.

1. **A**LL bills of exchange, promissory-notes, drafts, or order for any sum under ten pounds, shall be written on a piece of paper stamped with a three-penny stamp; if for ten pounds, and under fifty pounds, on a six-penny stamp; if for fifty pounds, or upwards, on a shilling stamp. 23 G. 3. c. 49. s. 2, 6.
2. Drafts or orders for money, if payable to bearer, and on demand, drawn upon any banker, or persons acting as a banker, residing or transacting the business of a banker, within ten miles of the place of abode of the drawer, shall be exempted from the above duty.— Ibid. s. 4. 24 Geo. 3. c. 7.
3. This act shall not extend to Scotland, where the sum to be paid shall not exceed one guinea. Ibid. s. 5.
4. No foreign bill of exchange, promissory-note, draft or order, shall be charged with a higher duty than a sixpenny stamp; but every duplicate and triplicate of such bill, &c. shall be on a six-penny stamp. Ibid. s. 8.
5. The stamp to be paid for by the drawer or giver. Ibid. s. 12.
6. No bills of exchange, &c. on unstamped paper, (except for a sum under forty shillings. 24 Geo. 3. c. 7.) or on stamps of less value than expressed in No. 1, shall be available either in law or equity. Ibid. s. 14. And the drawer shall be liable to a penalty of five pounds. Prosecution within twelve months.— 24 Geo. 3. c. 7.
7. Counterfeiting stamps, or uttering false ones, is death. Ibid. s. 20.
8. Notes of hand for less than twenty shillings, shall be of no effect; and persons issuing them shall forfeit from five to twenty pounds, by distress, half to the informer and half to the poor. Information to be made within twenty days. *15 Geo. 3. c. 51.
9. All notes of hand, bills of exchange, or drafts for any sum above twenty shillings, and under five pounds, being negotiable, must be signed or attested by
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one subscribing witness, at least; the place of abode, also, as well as the Christian and surname of the person or persons to whom they are made payable, must also be added in the body of such notes, &c. and they shall bear date before or at the time of drawing, and not at any subsequent date, and shall be made payable in twenty-one days after date. Every indorser must also say, *Pay the contents to A. B. of such a place* (naming the place), and each indorsement must be signed by a witness, or such notes, &c. become void, and the person who issues them shall forfeit, for every neglect, from five to twenty pounds, by distress; and in default of distress, shall be imprisoned for three months. And such notes, &c. shall not be transferable after they are due. 17 Geo. 3. c. 30.

AGREEMENTS AND BONDS.

1. **A**LL agreements (except where the matter of agreement shall not exceed twenty pounds, and also except those for a lease at rack rent of messuage under five pounds, those for hire of labourers, artificer, manufacturer, or menial servant, and those relating to sale of goods, &c.) must be on a six shilling stamp, or they are void. 23 Geo. 3. c. 58.

2. Bonds (except such as are given as security for money) charty-party, contract, deed or deed poll, indenture, obligatory instrument, letter of attorney, lease, procuration and releases, on a six shillings stamp. Ibid.

3. Bonds for the payment of money, if not above one hundred pounds, shall be on a five shilling stamp; if above one hundred, and under five hundred pounds, ten shillings; if five hundred pounds and upwards, fifteen shillings. Ibid.

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THE COUNTRY LAWYER.

A D D E N D U M.

SINCE the printing of these sheets the following alterations have taken place, respecting the duties on horses and carriages.

1. Persons keeping two horses for draught or riding, are to pay, in addition to the former duties. 5s. shillings annually for one. 29, Geo. III.

Keeping three, four or five Horses. to pay 7s. 6d. addition for each after the first one. *ibid.*

Keeping six or more, to pay 10s. in addition for each, after the first one. *ibid.*

Penalty for not entering, 7£. *ibid.*

2. Persons keeping one Coach &c. with four wheels, (Hackney coaches and Post chaises for hire excepted) are to pay an additional 20s. annually. *ibid.*

Keeping two such Carriages, to pay 20s. in addition for one and 40s. for the other. *ibid.*

Keeping three or more, to pay 20s. in addition for the first, and 3£. for each of the other. *ibid.*

These duties to be paid quarterly. *ibid.*

Carriages of all denominations of two or three wheels, not generally used in husbandry, are subject to the duties of the former act and omitting to enter them, forfeits 7£. *ibid.*

